B & Sus

App. F. IX-4

1924.

File No. 13-24

Previous References (P.P)

Serial Nos. 1-21, 22-23

Preserve

Later References

C/5.30(1-10)

for ever

General and Revenue Secretariat.

Serial Nos. 1-21, 22, 23

Part B for May 1931 [illegible]

SUBJECT

Trial of European British Subjects

G. R. S. III-2]

General and Revenue Secretariat. | File No. of 19

Serial No.

From

The Secy to the Chief Comm
Resident
N. Cachar
No 412 of 7/7/22
forwarding 5 copies
of the Report of the Tribal
Districts Committee
P.P

1) (1) Acknowledge.

* Attached
2/.

× (2) One copy to be submitted
to Dewan with D/o R.

× (3) One copy to be sent
to 2nd Member for
perusal.

The rest may be kept
in Library.

(Sd) K. Dr.

2) Submitted with draft.

(Sd) In c R.
& T.2.K
6/2

3) Issued

(Sd) T & R.
6/2/22

To

The Secy to the Chief Comm
No Pol 721 of 7/2/22
Acknowledging the
receipt of copies of the
report

NOTE—Contn. sheet.

Serial No.

This may be remembered with any of the Cr. Law Amendment Act about to be passed in the Indian Legislature -

by
1/3

Resnd with a copy of the Act refd to

2/5/4 6

Ch. Secy

2 Under the Myme Regs, Magistrates criminal jurisdiction over European British subjects is vested in the Governor in Council & the Maharaja can exercise over these such persons and such jurisdiction as may be delegated by the Governor-General.

3 The special privileges enjoyed by European British subjects in Br. India have been almost entirely abolished. These relate to the competency of Courts & Forms of trial, nature & extent of punishment

4 In Myme European Br. subjects

NOTE—Contn. sheet.

Serial No.

have under the head the further privilege of exemption from the jurisdiction of the State Courts in which British and European subjects in the State reside. The number of these is very small, it is a matter of the utmost difficulty to prepare suitable charges against them for criminal offences. It appears to me that the question of asking for a modification of the Treaty in this matter deserves serious consideration now. If this is not conceded we might ask for the delegation of power under the head of more jurisdiction such as that of European British subjects by Post Masters and the Postal 1st class Magistrates, Special Commissioners of the Government Journal. This is covered by Sec. 14 of the Indian Post Office Act

78
3.5.23

Just
Political

and members
Secretary

11/4/23
2/5/23

2/5

will Mr. Rees please put up the papers on the subject which he promised to me

NOTE—Contn. sheet.

Serial No.

10

10) I remember these and other papers a statement was appealed that there was found in Ground has accused Mr. Gandhi by power to subpoena the powers to hinder their statements. Special system was opened a opinion on behalf of Mr. Gandhi during Mr. Gandhi was found me of his visit a fact. Mr. Gandhi was also his resolution & his party during Mr. Gandhi's appeal.

X+

11

Attempts made to trace the references are all in vain the debates of the Legislative Assembly and the Council of State were also looked into but to no purpose.

12)

Ch. Secy

13) and members

601 14/6

NOTE—Contn. sheet.

Serial No.

DEWAN'S OFFICE.
Recd. on JUL 3 1923
Reg. No. 68

NOTE—Contn. sheet.

No. 59

REPLY.

(To be written on this margin.)

Office of the Dewan of Mysore.

NOTE.

Dated....18th July.....1923.

Copies of corresponaence in the matter of 'Racial Distinction in Indian States'.

****

Forwarded with compliments to the Chief Secretary to Government for favor of further action.

6/
15.7

Mysore Party
6
1870

shoots and blood of the goat sublime a hundred times until there is a red colour. Taken internally as a tonic this strengthens the body preventing untimely death."

ENGLISH MICA PREPARATIONS

1. *Commutator plate.*—This is made from 'Amber mica *i. e.*, Canadian Mica.'

2. *Moulding mica plate.*—This is made from Indian Mica. It is useful for tubes, commutator rings &c.

3. *Flexible micanite plate.*—This is made from the highest quality of Indian Mica. This is freely used for transforers field magnets.

4. *Micanite cloth.*—This is made of two or three layers of pure Indian Mica with cloth on one or both sides.

5. *Micanite paper.*—This is made of pure Indian Mica with Japanese paper.

6. *Micanite yellow cloth.*—From purely Indian Mica splittings.

7. *Heat resisting Micanite plate.*—Even for thousand degrees Fahrenheit this is useful. Made from selected Indian Mica.

8. *Mica folium.*—This has a high dielectric strength and is used for tubes and cylinders.

9. *Micanite.*—Made of mica with rubber, ellac, and gutta percha, and termed as "Mica bbeston and Mica Bond."

MICA SUBSTITUTES

ubstitutes for mica have come to the market e and again but during the war, Germany not ng any appreciable deposit, developed success- manufacturing substitutes for Mica. These l not be mistaken for artificial mica. The are compressed paper products impregnated called artificial resins, condensation produ- phenol and formaldehyde. These are tinax" for high tension, and Bakelite." xolin" made from paper impregnated with ish. Formalite and leatheroid are other substitutes made from "fibro material from cellulose.

India owes her present status in the Mica world to

(*a*) the extent of her deposits.

(*b*) the extreme suitability of the bulk of small mica for splittings.

(*c*) cheap labour which other countries cannot easily compete.

(*d*) average dielectric strength of Indian Mica is high and slightly stained mica is hard.

Hence none of these substitutes can permanently compete with the mica (natural) and compete in the market favourably.

10. *Mining in Nellore.*—Nellore being the best District for producing mica in the Madras Presidency, it is natural that we should enter into some details. From the year 1887 or a little earlier certain ramblers are reported to have come across some books of mica in the Rapur Mining Area. Learning that this was marketable the wealthy landlords employed Yenadies—a wild tribe—whose habit is searching for mice in the jungles—These 'children of the forest,' in reality were able to work (in the vicinity of the reserve forests) mica books found in veins by their exploration. The yenadies seem to have been accustomed to hit upon a probable plot by instinct and long usage somewhat successfully. Even for exploration and prospecting purposes scientific methods are good. Systematic scientific method if adopted would involve less chances of failure than haphazard mining depending on the Yenadi in the first instance for tracing mica. It appears in the year 1892, Dr. Warth, was asked to make a general survey of the district. Since then mica mining has grown from very humble beginnings to what it is to-day. The work was supervised by the Forest Department at first, but has been shifted on now to the Mica Inspectors.

never ceded expressly or otherwise, and that the Governor-General's proclamation could not deprive Travancore of that right. The *coup de grace* to the contention of the Madras Government was, however, given by the ablest lawyer in Madras at the time, the late J. D. Mayne, who was consulted by Madhava Rau, and who observed, *inter alia*, in regard to the effect of the Proclamation:—

"It cannot of course go beyond the powers given by the Statute; and the Statute, though binding on all British subjects, has of course no force against the sovereign of Travancore or its servants, who are not subject to the authority of the British Parliament. Even if the Statute purported in express terms to take away a jurisdiction previously exercised by the Courts of Travancore, it would be simply inoperative against them. Parliament is as incapable of taking away the powers of a court in Travancore as it is of dealing with the Courts of France. But I agree with Sir Madhava Rau that neither the Statute nor the Proclamation contemplates any interference of the sort."

After this the Advocate General had to climb down and to admit that "on further consideration and with the advantage of weighing all that has been urged by the Diwan and my learned friend Mr. Mayne, I have come to the conclusion that the trial of Liddel by the Travancore Government is legal, and therefore he ought to be left to undergo the remainder of his sentence." The Madras Government accordingly cancelled their former order, and admitted the right of Travancore to exercise jurisdiction over European British subjects.

But the matter was not allowed to rest there. In 1874, a communication from the Resident was sprung upon the Diwans of Travancore and Cochin, intimating that the Government of India considered that

"the law respecting the trial of European British subjects for offences committed in Native States required some alteration in the practice which had hitherto prevailed. * * * His Excellency the Governor-General-in-Council, having regard to the position of Her Majesty's Paramount Power in India and to the Treaty Engagements entered into with Travancore and Cochin*, does not recognise the position assumed in certain discussions that have taken place, *viz.*, that the exercise of jurisdiction over European British subjects is an inherent right possessed by the Governments of Travancore and Cochin."

The Government accordingly proposed to delegate to the Resident for the time being in Travancore and Cochin all the powers over European British subjects that might be exercised over such subjects in British territory by a Justice of the Peace and Magistrate of the first class. The Resident added that he would be "glad to have any remarks that might occur to His Highness's Government that might assist towards the satisfactory maturing and working in detail of the arrangements" and requested the Diwans "to bring the matter to the notice of His Highness *with every expression of high consideration.*" The italics are mine, and I hope the reader will not fail to appreciate the deliciousness of this sarcasm.

A. Seshayya Sastri in Travancore and T. Sankunni Menon in Cochin vigorously protested against this interference with the sovereign rights of their respective States. Their letters are too long to be quoted here, but a few passages therefrom are extracted below to show their nature.

The State itself may not be very extensive," Seshayya Sastri observed, "nor its population or extent very great in comparison with other countries; but this clearly does not affect His Highness's status as a sovereign ruler, nor his claim to be subject to no other than the law of nations in the matter of jurisdiction over foreigners..... ...In fact, the power is so far conceded in respect of Travancore that no question is raised as to the power of His Highness's courts over Europeans other than British subjects, over Americans, or the subjects of Indian or other Asiatic sovereigns. How then is His Highness's jurisdiction over British subjects affected? It cannot be that the vast extent to which Her Majesty's Indian Empire has, by God's blessing, been able to attain and the great influence which she exercises for good in the councils of smaller states can of themselves and without a cession on the part of Travancore operate to curtail any of the attributes of the Ruler of that State? The two may be vastly different in proportion by the side of each other, yet it will not be contended that the smaller loses any of its attributes, because its neighbour is great and powerful, and is bound by certain treaties to protect it against any aggression. If the principle were at all allowed, then should England, Germany and Russia claim to try their several subjects committing offences in small States like Denmark, Greece and Portugal."

* There is nothing in the treaty to warrant this and the Government of India once expressly admitted it, as shown above.

"The criminal jurisdiction of local tribunals over British subjects committing offences in this State,"

said Sankunni Menon "was never called in question since the Treaty, and this right was specifically admitted and defined in a despatch from the Court of Directors. It does not appear from terms of the despatch that this recognition of jurisdiction was based on mere technical difficulties in the trial of British subjects in British Courts at the time; and it has certainly been always accepted and acted upon as an enlightened concession to the sovereign rights of Travancore and Cochin as States exercising independent civil and criminal jurisdiction within their territories ..... Her Majesty the Queen has been graciously pleased to assure the Native Princes of India that all treaties or engagements made with them by or under the authority of the Honourable East India Company are accepted by Her Majesty and will be scrupulously maintained and that Her Majesty will respect the rights, dignity and honour of Native Princes as her own. The free access to the country and the encouragement to settle there, which have been largely accorded to Europeans were granted on the well understood condition that they would render obedience to the local laws and jurisdiction. By their domicile here they necessarily waived any right they might have possessed to an extraneous and exceptional jurisdiction, and elected to be judged by the tribunals of the land of their adoption. No injustice, therefore, or violation of vested rights can accrue to offenders of this class by their being dealt with by the local Courts. These remarks apply with equal force to Europeans who have voluntarily engaged to take service under this government and are actually in its employment."

Those just and forcible observations of the two great ministers were of no avail. The Government of India said that, so far as the principle involved was concerned, the question must be considered as closed, but they conceded that "the Sirkar and not the British Government should appoint first class Magistrates, who should be European British subjects, for the trial of all cases in which European British subjects were defendants." The Secretary of State pronounced the final benediction, and approved of the conferring of "a limited jurisdiction on certain Magistrates in the States of Travancore and Cochin. It is a fitting acknowledgment of the efforts made by the rulers of these States to improve the administration of justice within their dominions." This concession has been rightly characterised by Seshayya Sastri as "only the shadow of a favour without the substance." Le Warner could not however understand, though he would have understood if he lived now, how "the protected prince could reasonably object to a provision embodied in the Turkish capitulations of 1675 confirmed by treaty in 1809."

It will be seen from the account given above in some detail that Travancore and Cochin exercised criminal jurisdiction over European British subjects for over three-quarters of a century after the treaty and that they were arbitrarily deprived of this sovereign right by the Government of India as an act of state. Racial discrimination has been the most galling feature of Indian administration: it was aggravated in States like Travancore and Cochin by the circumstances connected with its genesis. Now, however, that the angle of vision is supposed to have undergone a change, and the Government of India seems disposed to bring about the elimination of racial distinctions, it is time to reconsider the question as regards such distinctions in Indian States, at least in those States in which they do not rest upon the stipulations of the treaty.* In the latter case we are not asking for a new privilege: all that we ask for is the reversion to the state of things that existed till 1875. It is fervently to be hoped that the Governments of the States concerned will take advantage of the present psychological moment to move in the matter.

* I have confined my observations to Travancor and Cochin for obvious reasons. There are sever other States whose case is equally bad or even wor In Bhopal, for instance the Treaty of 1818 contain the express assurance that "the jurisdiction of British Government shall not in any manner be in duced into that principality." Yet that jurisdic was introduced into it in the sixties of the last tury, and this act of state is said to have been "b on three considerations—the intention of the tr its proper construction, and th eeffect of Parlian ary legislation." (!)

Copy of D.O. letter dated 11th July 1923, from the Private Secretary to His Highness, to the Dewan.

****

I return, with many thanks, the article on "Racial distinction in Indian States", which you kindly gave me to read.

I fear the position of Mysore is not a strong one in this respect, as jurisdiction over European British subjects has been expressly ceded to the British Government, though in practice, the policy of the Government of India is the same in the case of all Indian States, as far as I am aware - treaty or no treaty.

Our best and only argument would be this, that there is no reason why the new procedure introduced in British India should not be adopted in Mysore too.

I think we are bound to get this power sooner or later; it is only a matter of time.

~~Demi-~~ of D.O letter dated the 17th July 1923 from the First Member of Council, to the Dewan of Mysore.

****

I beg to acknowledge with thanks the receipt of your D.O. letter No.34 of the 13th instant regarding the article in the Indian Review on "Racial Distinction in Indian States".

It is true that we have not got a strong case from the legal point of view, but the Government of India having done away with the distinction in their own territory, they cannot resist our claim for the cession of the jurisdiction over European British subjects, which rests on principles of justice and fair play.

I would therefore make an attempt at once and address the Residency in the matter. The cutting from the Indian Review so kindly sent is herewith returned.

****

Serial No.

18) Draft to the Residency is sent for consideration. Paras 6 and onwards require scrutiny and orders 1st member thro' Govt secy) cag 17.9

19). I have discussed the draft with the Asst secretary. It contains a full statement of the case. I thought at first that it would be enough if we made a general request that the position of the British in ~~Siam~~ the matter of Criminal jurisdiction over European British subjects - Siam now ~~was~~ in the wrong - may be reconsidered in view of developments in Russo Indian. As known, we are going to have an uphill task in establishing our claim & consider that it is desirable to present our case in as full detail as possible

20) Draft for consideration 19/9/19

15 members) — cag 19.9

2280/199

21) Govt. how are we to ensure ~~that~~ Reference that in a place like Siam or Mysore, we may not find ourselves two persons to learn as jurors

NOTE—Contn. sheet.

22) As

Serial No.

23) The usual number composing a jury is 5 but it may be raised to 7 or 9 in murder & other cases, as suggested by the Committee. It is always possible to get 4 or 3 Europeans in Shimoga & Mysore. There are missionaries & professors ~~belonging~~ who are Europeans. Manganese works & Bhadravati works may always have some Europeans on the staff. If these sources fail, Europeans Planters are always available in Chickmagalur & Hassan Districts. & the trial may be held in those Districts or their presence obtained elsewhere, by payment of TA & batta. A para to this effect has been added to the draft as ordered by the member.

Subs

Genl Secy

1st Member

Cag 28/9

28/9

29/9

2823/299

WAN'S OFFICE.
OCT 6 1926
No. 2321

24) A revised draft is put up which may be approved —

Please contd. other Members

Cag 29/9

3/10

NOTE—Contn. sheet.

25) no late fee to be levied in cases under

Secy

5/10

Cag 5/10

S. III-2a]

DEWAN'S MINUTE.

General and Revenue Secretariat.

File No. 192 .

Date of submission	Date of Return	Date of issue of orders in the Secretariat	Remarks

2824 26/7/10 This is an important question
may be considered in
Chief Secretary with
Compliments.

Yes. 10

8/10.

cy
8/10

(For Disposal at a Meeting)

No. C. 185

.....9.....1923-4

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clause xii of the Schedule).

Draft.letter to the Residency re: the procedure relating to the trial of European British Subjects residing in the State for offences committed therein.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Chief Secretary to Government.

.....23rd..October.1923.

Extraordinary Member of Council.

3161 / 25-X-23 **First Member of Council.**

493 / 27-10-23 **Second Member of Council.**

Third Member of Council.

Subject:

Draft letter to the Residency re: the procedure relating to the trial of European British subjects residing in the State for offences committed therein.

....

OPINION OF THE COUNCIL.

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

29) Revised Draft prepared as per Chief Secy's instructions Replies from Messrs Varghese & Krishna Menon, Judge High Court, & Chief Secy Travancore, to be awaited

Cuty
23/1

30) Draft revised as per Chief Secy's instructions and It is seen from Mr. Justice Varghese's letter that the position in Travancore is not very much better than here. The only power they have, which we have not, is the power to appoint Special Magistrates who should, however, be European British Subjects and a Special Attachable Judge (a High Court Judge if he has always been a European British subject) to hear & dispose

N. B.—Should routine notes be written on small slips the notes must b cipoed, or slips pasted on this form.

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

of appeals from the decisions of the Special Magistrates Even there, there are Justices of the Peace also by the Governor General. It does not look as if we would interfere in matters by hearing any appeal to Travancore or for the matter of that to any other Native State in our Communication to the Residency.

Clerk 26/1

(Chief Secy)

313 Please see also the Travancore Govt's letter No. 80 dated 4/11/24

N. B.—Should routine notes be written on small slips the notes must be copied, or slips pasted on this form.

317 Points to be added:—
we have given European

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Mauritius + gold mining interests representation on the constitutional basis of the State.

33) Please let me have a copy of the forg Notice Reader appointing the Racial Distinctions Committee, if available; also the latest Annual Report of the Govt of India which contains reference to this point.—

^ Copy of Act XII of 1923

34) However in view of Indian Treaties, we must be cautious in all the Indian States.

Yours very sincerely

Wedgwood

35) Draft revised as discussed. Act XII of 1923 & the Indian Arms Rules of 1924 are put up. Copy of the Govt. of India Resolution appointing the

N.B.—Should routine notes be written on small slips the notes must be copied, or slips pasted on this form.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Racial Discrimination Committee is not available through the point of which Sapru was looked into. Extract from the Resolution a given in Para 3 of the Committee's Report.

Cody
7/3

Chief Secy).

360 Refugees number.
7/3

361 a Revised draft
submitted
7/3

7765
8/3

Hon Members -

362 I keep his amendment in his original draft. Remarks may be communicated to Hon. Member.

Secy
9/3

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Secy
10/3
363 may be circulated
11/3.3
10/3

(For Disposal at a Meeting)

No. C. 183

.....1923-24

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clause xii of the Schedule)

Draft letter to the Residency regarding the procedure relating to the trial of European British subjects residing in the State for offences committed therein.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

.....14th March.....1924.

Chief Secretary to Government.

Extraordinary Member of Council.

7959/17/3

First Member of Council.

Second Member of Council.

Third Member of Council.

Proceedings of the 695th *Meetings of the Council of His Highness the Maharaja, held at Bangalore on the* 8th & 9th April 1924. *19*

229. Subject. - Clause XII of the schedule.

Draft letter to the Residency re: the procedure relating to the trial of European British subjects residing in the State for offences committed therein.

OPINION OF THE COUNCIL.

The draft may be generally approved.

(Signed) A. R. BANERJI,

Dewan of Mysore.

"EXTRACT"

Chief Secretary to Government.

Submitted to the Minister for final orders.

8802/10/4

WD 1471—GPB—2,000—1-3-21

Serial No.

(1) Final Note signed by the Member is placed in the file.

Ans 16/1,

(2) As recommended above

16/1

4.3.74

Confidential

DC 182 251
Secy 0223 file

The Palace,
Mysore.
24th April 1924.

My dear Sir,

I am directed to return File No.251 d/ 18-4-24 and to say that His Highness is not at all satisfied with the draft letter to the Residency. He thinks that it is not only a long and discursive one but the language too is not happy or free from ambiguity. Some of the arguments used are scarcely convincing. All that is needed is a short concise draft, referring to the alterations in the law in British India, and asking for permission to introduce similar changes in Mysore.

His Highness will be obliged if you will send up a revised draft for his approval.

Yours sincerely,
Mirza M. Ismail

Rajamantra Dhurina

A. R. Banerji, Esq., C.S.I., C.I.E.,
Fern Hill.

of His Highness the Maharaja

Subject.

Draft letter to the Residency regarding the trial of European British subjects residing in the State.

823.
Returned with D.O. letter No 251 dated 24-4-24

Order.

Chupras.

HD The marginal instructions

2

27 APR 1924

HD A fresh draft is put up. Please consult Hon'ble Dewan —

Hon'ble

Dewan) 6/11/17

Mag/Hon 4/12. 1 Member

HD The marginal instructions

Revised draft put up. 1.5.24

2/4

1/5/24

Submitted to His Highness.

48

I submit herewith a Final Note by the...First.....

Member of Council on the subject of...draft letter to the Residency re the procedure relating to the trial of European British subjects residing in the State for offences committed there

for His Highness' gracious approval.

Dewan.

18 APR 1924

Final Note by the First Member of Council.

Subject:—

49) Draft letter to the Residency re the procedure relating to the trial of European British Subjects residing in the State for offences committed therein.

---

page 4

50) Under the Mysore Treaty, plenary criminal jurisdiction over European British subjects is vested in the Governor-General in Council and His Highness the Maharaja can exercise over these persons only such jurisdiction as may be delegated by the Governor-General. Further, European British Subjects have the privilege of exemption from the jurisdiction of the State Criminal Courts & they can be tried only by European Justices of the Peace. The number of Justices of the Peace in the State being small, it is a matter of the utmost difficulty for people in remote parts to obtain redress against European British Subjects for offences committed by them.

51) In British India also European British Subjects enjoyed, until recently, special privileges in regard to Criminal trials, but the Racial Distinctions Act, XII of 1923, has done away with some of those privileges. Soon after the passing of this Act in British India, the question of securing to our Criminal Courts jurisdiction over European British Subjects was taken up for consideration, and when the papers were submitted to me with the Chief Secretary's proposal to approach the Government of India for a modification of the Mysore Treaty, I recorded the following minute:-

Page 2 of Office Note

52) "I agree with the Chief Secretary. A reference on the subject should be made to the Residency. There is no reason why our Magistrates should not try European British Subjects, when our judicial system is based on the model of the British Indian System and is as efficient as the one prevailing in British India".

-do-do-

53) The Dewan having agreed with me, a draft letter to the Residen-

cy

Residency was got prepared accordingly and it was considered in Council in November last. It was further revised in accordance with the suggestions then given and it finally came up for consideration at the last meeting of the Council, when it was resolved that 'the draft may be generally approved'.

The draft letter which explains itself may be graciously approved.

BANGALORE,
15th April 1924.

MEMBER OF COUNCIL

P. P. 15—14

C.185

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

465
14/7/24

55) Have medical ~~m~~ pencil after supplies for change of verbal characters.

1st Member) 4

56) Mach adopted

Instn

15/7

57) Type 4

15/7

58) Mach 4

16/7

only

N. B.—Should routine notes be written on small slips, the notes must be copied or slips pasted on this form.

General and Revenue Secretariat.

P.P File No. 13 of 1924

Serial No.	
1	To The Secy to the Resident No Pol 66 dt 14.4.1924. Requests that the Resident may lend his support to the representation to the grant of Jurisdiction over European British subjects and obtain the favourable orders of the Govt of India in the matter either by a suitable modification of Article 16 of the Mysore Treaty or by the delegation of the necessary powers
2	From The Secy to the Resident- No 6332-M 9/8/24 Calling for statistic showing the No of trials &c of European British subjects during the last 10 years and enquiring if there is any objection to the United Planters's Association of South India & the K.G.F. Mining Board being consulted about the change proposed 29) Copy to Dewan with DS Submit with file (Sd) V.C.

NOTE—Contn. sheet.

Submitted to His Highness.

---

69 I submit for His Highness' gracious perusal a copy of demi-official letter No.6333 dated 9th instant, from the Residency on the subject of the request made by us recently about the trial of European British subjects by Mysore Magistrates. The case will be further worked up and submitted in due course.

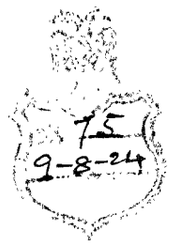
Bangalore,
9th August 1924.

H.V.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

(1) Copy of demi-official letter No.6333 dated 9th August 1924, from the Residency regarding trial of - European British subjects by Mysore Magistrates.



110

Order.

KRW
11/8/24

(2) Secretary
13/8

(3) Reply
13/8
15/8

General and Revenue Secretariat.

P/K File No. 13 of 1926

Serial No.

(64) Submitted with references.
2/ Cr 13/8 15/8 (Ch Secy) 15/8

(65) Please prepare a statement showing the statistics referred to in the 3rd para (Bench cases actually fixed, there may be many cases in which parties must work & proceed away to the circuit courts.)
A
15/8 1578

(66) Draft for Pl. - Please put to 2/ Cr 16/8 15/8 8 DB SB Masters also - 2- Matter at A in para 3
67 Draft for Pl. for approval. Local officers should be able to mention cases of the SDO referred to at A
2/ Cr 19/8 15/8 66)
Ch Secy

69) Returned with instructions 20/8

NOTE—Contn. sheet.

WD 2310—GPE—10,000—31-5-24

General and Revenue Secretariat

P.P File No. 13 of 1924

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The information re proceedings against Europeans in the Administration Report and the original report on which the Administration report secn is based is insufficient for the purposes of this file. Why cases failed does not appear in any report available either in the Secretariat or the Chief Court. It is learnt on enquiry that the records of the Justices of the Peace are all filed in the Records of the Magistrates. A reference to the original records of each case would enable the Offices of the Magistrates to find out the cause of failure of prosecution.

2) The draft to the Magistrates previously submitted therefore / puts up calling for info. on this point and as regards also cases ref. to at A on last page is slightly modified and the proposal

2/8

(Ch Secy)

3) Revenue resolution

3/8

Rw.

30/8/24

NOTE—Contn. sheet.

General and Revenue Secretariat.

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3 To The Dt. Magistrates & Dt. D.O. No & 1675-82 dt 30-8-1924

Request to be furnished with Statistics showing the number & trials & European British Subjects during the last 10 years

Rcvd after issue -

Dw 30/8 Clerk) Dw 30/8

as regards the Resp proposal this consulting the W.P. A.S.I & Police & Mins Bd there letter that first hand discussion with some representatives of the Pakistani & Minni communities perhaps this can be done during the ensuing Darra

2036 3-9-24

dy 6/9 Dw 6/9

Hd Member -

Dw 6/9

What we stated in our letter was that his Govt will not be unwilling to consider which means that if he need provisions is introduced Govt will appreciate his Govt's & it is will not therefore be opposed When occasion - A reply When appeal may be sent when his representation called for is received - He may informally sound his European members also -

Secretary) for Secretary 6/9 Dw 6/9

GOVERNMENT OFFICES, Dte. Bd 6 SEP 1924 No. 1959

NOTE—Contn. sheet.

Dw 6/9 Dw 6/9

Would not be advisable in my

General and Revenue Secretariat.

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Serial No.	
783	Submit in my minute at flag A 8/9
4	From Dr. D.M. Dolar dt. No. 785 dt. 13.9.1924 Re a statement showing the number of European British subjects during the last 10 years 783) Subd the replies from the other Dt Magts may be awaited Jm 16.9.24 Yes TBS 16/9.
5	From Dr D.M. Chittaldrug Dt D.O dt 20.9.1924 States that no trials of European British subjects have taken place during the last 10 years and that there are no cases in which the parties did not wish to proceed to prosecute them owing to various inconveniences 80) Subd Further information from the D.M. Chittaldrug and the replies from the other Dt. Magts may be awaited Jm 22.9.24 81) Yes TBS 22/9

NOTE—Contn. sheet.

General and Revenue Secretariat.

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6	From Dr. D.M. Hassan Dt D.O. C 71-24 Dt 26.9.1924 Dr a statement showing trials of European British subjects during the last 10 years in his Dt etc. ~~Subd with a bft remr~~ 30.9.24.
7	From Dr D.M. Shimoga Dt D2 Sec 147 / Rev 24-25 Dt 27/28.9.24 Furnishes the information re the trial of European British subject during the last 10 years in his Dt 82) Subd with a bft remr 30.9.24 82) Issue T&S 30/9 Remrs issued vide P 2544-7 Dt 1.10.24
8	From Dr D.M Bhore Dt. D.O. No Jc 158/24-25 Dt 29/30.9.1921 Furnishes the information re the trial of European British subject during the last 10 years in his Distt 84) ~~Subd~~. Dr replies from the other Dt Magts may be awaited 3.10.24 85) Submitted with pegr. to Chief Secy's Note M

NOTE—Contn. sheet.

Serial No.

8-9-24 on page 27 of 1st Index. The case will be further considered when the files are returned - HW 11/10

(Chdes)

(356) A draft reply will be put up when the information called for is received from all the Offrs. Meantime I believe the 1st Member is anxious to make acquaintance with Mr St. John Hunt, the European Planter Member of the R.S.: 1st Member HW 8/10

3253 20/10

(357) Yes. Mr John Hunt was quite convinced of his reasonableness & was clear in his mind that if permitted he would place his matter before his association: he may write to his Residency, that if he desires he will himself consult the Association; HW 13/10

(358) When asked for remarks says. There is also the question of consulting the K.S.F. people & 21/10

Decision

(359) I think we may forward the letter to the Hon. Secretary Kuching for information. HW 21/10

NOTE—Contn. Sheet

Serial No.

91) A draft of a letter to the Planters Association and the Rly Board is put up. It proposes which Planters' Association should be consulted — the UPASI advises referred to by the Residency or the Mysore Planters' Association (of which I believe there are two). I think we should consult the latter —

Sec
29/10

Ch Secretary)

92) we must consult not the UP. Assn. but the European planters more in the Nilgiris. Perhaps they have unregistered some registration taking. If information is not readily available with Secty, please get it from the Pr. of Agri. Ker

92) Manipulating a proper appn (consultation of members) —

Sec
17/11/21
Mysore 8/12

Left 19/12

93) The forest Dept by its removal of its Range Headquarters; the Magistrates in the Nilgiris though the same nationality as the Indian Magistrates in Mysore Districts have been placed in an unfair position as they have been brought up.

94) (2) It may be stated that the Agency Dept by giving been entrusted with the duties of Asst Collector, that it is already in force in the Madras Presidency, Travancore & Cochin & that if necessary the Head may be entrusted to the Executive Dept — but NOTE—Contn. Sheet Court Powers instead 2 by a Magistrate

Ch Sec) Sec 20/12 Chief Sec. does not propose to proceed further in the matter 20/12

Serial No.

Remembered with the addition as mentioned. (I am not sure whether we would be wise in making to much of the point about any master being first placed in a wage position than master of the same nationality, as it is open to the retort that the real issues different, viz. that Zyme has no jurisdiction over Europeans has been cured of Zyme to the Governor-General and that the liability of Zyme Magte is due to his & not to any racial considerations)

5269
2/1

by
2/1/25

1st Member) 98) Draft is approved
2/1/25

3/1

That I would wished is that in no manner to deprive the European subject of the privilege heretofore enjoyed by them, but for the accused was provided by the [illegible] and such which places no Magistrate in any respect that of the subject to the Magistrate

3/1

Draft is submitted for approval by Secretary 3/1

101) Issue 1 subject to 1st Members 3/1

1027)

NOTE—Contn. Sheet

Serial No.	
9	From The D.M. Mysore Lr. D.O. D_2 bri 216 dt 26.10.1924. Forwards a statement showing the details as regards the trials of European British subjects in his District. Subd. 1037) The replies from the Lr marks & number and reader Lr may be awaited. JM 29.10.24 TSR 29/10. YS qw 1/11
10	From The D.M. Kadur Lr. No D_2 bri 122/24-25 dt 29-10-1924. Forwards a statement showing the number of trials of European British subjects during the last 10 years. 1043) Subd. The replys from the Lr marks & number may be awaited. JM 1.11.24 Yes TSR 1/11

The main file connected with this case is with the Law Secretary

Serial No.

11

To the Secretaries of the K.G.F Mining Board Oorgaum & Planters' Assn Sabalesparam

Requests the views of the Board and the Association on the subject of the trial of European British subjects by the Indian Magistracy of the States in accordance with Act XII of 1923 Govt. of India

8212)
From Sc D. No. 3008/25 dt 29.12.24 forwarding the ribbon re the trial of European British subjects

105) A.D.O. reply to Sl. 3 from the Junkers Dr (since received) is put up for perusal and orders.

8/1/25 8/1 106) (Should these be sent to Ch Secy after 7th - Secretary)

107) The letter is submitted for perusal & indicates one of the difficulties of the present situation. No action necessary on it now. MV 7/1

Ch Secy)

PP

MV

MV 7/1

3200
3209

From the Secy. K.G.F. Mining Bd No. 116 D. 6.1.25. states that the matter will be placed before the Board

From the Secy. K.G.F. Mining Bd - No. 116. D. 6th Jany. 1925.

States that the Board has decided to refer the subject to the Directors of the K.G.A. Co's in London for their comment & that on receipt of their reply a Comm. will be made

108) A-S. notes thereon -

109 Put up with the file for orders & thereafter

(Secy) M.V. 10/1

NOTE—Contn. Sheet

Serial No.

1150 Submd.

(Sd/-) [illegible] TSR 10/1

"Entd in the notes as usual and kept up"

(Sd/-) M.V 12/1

1152 Recommitted

[illegible] 14/1/25

TSR 14/1

5-788 20.1.25

1153 The K.G.F. Mining Bd's letter of 9th instant is subd for perusal

Sd/- 9/1

First Member) 1154 [illegible] 11/2 [illegible] Sd/- 9/2

SUS TSR Sd/- 12/2 12/2.

Fr Chief Secy. Trankenbar. No: Dy Dis 173/24-25 Dy 25.2.1925 — 13

Forwards the statement recording the trial of a European British Subject by the Assistant Magistrate Kuppam

1155 Subd for orders kindly refer as invited to the first letter of the Chief Secy. Trankenbar. wherein mention is made of a reference & a case filed by one Manikyam against a European Br. Subject. The result may perhaps be ascertained

(T)

1156 It is also for orders whether the

NOTE—Contn. Sheet

Serial No.

(Messrs Bowring & Plummer)

Justices of Peace ~~may~~ ~~besides~~ those of the ~~K[illegible]~~ may not be asked to give a statement ~~as that~~ similar to the one supplied by the Dr. Magistrate Kohat, Perhaps they may also be consulted in the matter

(2)

24/3/25 TBS 2/3.

114) Not necy
Await further
Comm[unic]s from Board & Govt
Init
4/3

118) Sd with a ~~bbr~~ memo

119) Issd.

Init Sd
3.3.25 TBS
3/3.

Issued no 2 6451-2 dt 4.3.25

14 From the Secy. Dt 2 to Morning Post Bombay

No. 116 dt 6.3.1925

States that the subject has been referred to the Directors of the Indian companies in London for their comment.

15 From the Secy. Imperial Plantain Association

dt 4.3.1925

States that the subject will be placed before the Association at the Annual General Meeting of Association which will be held on 6.4.1925.

120) Sd for perusal further replies may be awaited 121) Yes
TBS
11/3

Init
11.3.25

NOTE—Contn. Sheet

From the Secy. K.G.F. Mining Board. No. 116 dy 30.3.1925.

To the Opinion of the Home Board in the matter.

Submitted for perusal. The reply from the Planters Assn is still due and may be expected about 10th April

31/3/25

Serial No. 16

Ch Secy)

1223 Further reply since rcd. Abstract & submit to 1st Member for perusal

6.5.25

From the Secretary, Mysore Planters Association

dt 11.4.1925

14

States that the Association wish to know that Dr. Masts only would try cases of accused British European Subjects and what in such cases would be their powers of appeal and if a Justice of the Peace should be appointed to the Planters Districts as in other States,

1223 Subd. to the 1st Member with ref to paras 96 & 99 above

6.5.25 Of the two bodies consulted the K.G.F. Mining Board refuses to express an opinion and the Planters' Association seem unwilling to concede that Indian Magistrates may try European Br subjects

12/5

NOTE—Contn. Sheet

270/12.5 1st Member)

Serial No.

A copy has been sent to the North Planters Association in regard to the points raised in their letter

There are 3 points raised therein

(1) Whether District Magistrates alone would be European British Subjects or also Magistrates

(2) What would be the powers of punishment of such Magistrates

(3) Whether a J.P. cannot be appointed in Planting Districts.

As regards points (1) & (2) ~~a copy of~~ ~~may be sent~~ the A & A Secy may be asked to refer them with copy ~~of the proceedings~~ to the Commissioner of Police Act in force in Bombay with regard to (1). ~~& in connection~~ in connection with the second case if I think

A & A Secy
17/5

Ag. Secretary

12/5

Dy
Dy
13/5

14/5

14.5

(1) Formerly in British India European British subjects could be tried only by Sessions Judges, Dist. Magistrates and Magistrates of the first class who were specially

NOTE—Contn. Sheet

Serial No.

of the Peace & are themselves European British subjects. They could also claim right to be tried by a mixed jury in all cases (now SS. 1, 4, 5 & 6 Cr. P. C.)

After the amending Act. X II of 1923 all first class magistrates notwithstanding their nationality can try European British subjects and 2nd & 3rd class magistrates can try cases punishable with fine not exceeding Rs 500/. (S. 29 A)

(2) As regards the power of punishment of the magistrates, the court of session could pass only sentences of imprisonment for the existing one year or fine or both. Higher punishment could be imposed only by High Courts. (S 449)

Dt. magts. could sentence only up to

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of punishment - trial

The powers (which Magistrates (whether Indians or otherwise) in Br India exercise over European British Subjects, after the passing of the Criminal Law Amendt Act XII of 1923 are as follows:-

Second + Third Class Magistrates	Can take Cognizance of only such Cases as are punishable with fine not up to Rs 50/-	Can fine upto Rs 50/-
1st Class magistrates + District magistrates	All cases except Sessions Cases	Can fine upto Rs 1000/- + imprison upto 2 years
Sessions Court	all cases	Sentence of death + transport + all other sentences

N.B. No Court can pass a sentence of whipping

The above is only when the European British Subject does not claim to be tried under the Special provisions under Chap XXXIII - where racial Complications arise when he claims to be tried under that Chapter,

1 In Summons Cases - only a Bench of two magistrates one being a European, can try him.

2. In Warrant Cases. The Sessions Court

He can claim the majority of jurors or Assessors to be Europeans or Americans.

do.

(30) Our proposal (Flagk) is to invest the Dist magistrates & Special first Class magistrates with Appellate powers, to try all Cases of Br. Subjects, except Sessions Cases As regards

Flagk

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powers of punishment, no mention is made in Magk. but they are presumably their ordinary powers of 2 years and 1000 Rs fine, which is what is exercised by the Similar magistrates in Bor. India

131) Subm with reference to 18th member's query.

L L Secy)

12th M

366/19.6

132) A Sanskrit doggerel in the Association formerly in regard to them was the pun on Sanskrit for approval

25/6

25/6. cag 25/6

133) Br Asst. 27/6

134) Draft subm 25. 25/6. init

P.T.O.)

NOTE—Contn. Sheet

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record]

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(84) The present J Ps were appt^d when? Do they appt valid now? If not who shd appt J's to sit & for what under what law exercising jurisdic^n now / & what (cour)ts shd they administer? What from the point of view of law are the difficulties in appt^g a sufft number of JPs?

(73b)

I have been asked to submit this file in person to the Member in connection with the other file ——— dealing with the trial of [redacted] (Mr Ching) in Bore St. Clerk

17/2/20

instructions from the member since Also he asked me to collect information on the points mentioned in the note above and see him in company with Mr Ghani with a draft & possible heads of opinion that he should be made clear

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 1890—GPB—1,50 000—2 5 21

This when I visited him in December in connection with

17/2

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

DEWAN'S OFFICE
RECD. on 16. FEB. 1926
Regd. No. 6023

to the Residency that the change of procedure was proposed not because the English people in the State did be agreeable with but because the change was made in British India and should be made here also, and wanted this Darkhast case to be referred to in this connection. This file has been pending because ~~[illegible]~~ the matter raised on the file is still under consideration, and Chavan is had to prepare the case & submit the file to the Dewan Saheb

Nov 15/2

Obtained from Secretariat as per Dewan's desire SM 15/2-1/26.

137)

we received this with folio ex/st for the whole for the month — Nov 15th ult Time Diary

Y 15-2

U.S. 15/2/26

N. B.—Should routine notes be written on small slips 2the notes must b cipoed, or slips pasted on this form.

Serial No.

This file relates to the question of the revision of the procedure for the trial of European British subjects in Mysore. The procedure in British India in this respect has changed in recent years as a result of the Racial Distinction Committee's recommendations. On receipt of copies of the Committee's report the question was taken up here and a communication was sent to the Residency in July 1924. We stated that the need for the trial of these cases by Justices of the Peace only was the cause of much inconvenience to people who wished to complain and to witnesses, that Indian Magistrates in British India were by the change of procedure made there placed in a position of seeming superiority over men of the same race and of the same qualifications and position in the State and that Government was sure that the change if made here would not be unwelcome to British residents in Mysore. The Secretary to the Resident wrote in reply asking for statistics to support the statement that the trial by Justices of the Peace was a cause of inconvenience, and with reference to the statement that British residents in Mysore would not object to the change of procedure asked whether the Resident might consult some European Associations in the matter. Information as regards trials by Justices of the Peace was thereupon called for from the Districts. As regards the willingness of the European British subjects the then First Member, Mir Humza Hussein first consulted the English Planters' Representative in the Representative Assembly informally. The representative was willing that the change might be made and requested permission to

NOTE—Contn. Sheet

Serial No.

to place the matter before his Association. We later wrote to the Planters' Association and to the K.G.F. Mining Board and asked for their views in regard to the change proposed. The K.G.F. Mining Board expressed themselves as unable to give any opinion on an administrative problem like this. The Planters' Association before committing themselves to the proposal wished to know if District Magistrates only would try these cases and what in such cases would be their power to appeal. The matter was discussed in the Legislative Branch and a note put up of powers exercised by Magistrates in British India in this respect. The First Member thereupon ordered that the information required by the Association may be furnished to them. A suggestion had been made in our letter to the Residency that if necessary only District Magistrates and Special Magistrates with appellate powers would try summons cases and warrant cases by courts of Session. This was stated in a letter to the Association also. This suggestion differs in material respects from the position in British India as noted on by the Legislative Section. I submitted this file to the First Member some time after the date of his order in paragraph 132 and stated that the information as given by the Legislative Secretariat could not be furnished to the Planters' Association. The Member was pleased to order that it did not seem to him quite necessary to have written to the Association that as details were not yet settled and the information asked for could not be given at this stage it was not necessary to send a reply to the Association now and that the Residency may again be

NOTE—Contn. Sheet

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be urged to move the subject with the Government of India. About this time in connection with the trial of one Mr. King in Bangalore District some points were raised for consideration in connection with the offices of Justices of the Peace in Mysore and how the procedure laid down in the British Indian Criminal Procedure Code should be adopted by them. The Member mentioned this and instructed me to discuss the question raised on that file and its bearing on this case with Mr. Ghani and go to him some time with Mr. Ghani for discussing the whole case. When I waited on the Member in some other connection in November or December the Member was pleased to say that Mr. Ghani and I in consultation might put up a draft and submit the file to him together . Mr. Ghani and I have not been able to sit together for this file and put up a draft. The point raised in the case of Mr. King regarding the procedure to be adopted by Justices of the Peace in trying these cases has not yet been settled. If the only procedure that can apply in the trial of such cases in the State by any order in Council of the Governor General is the procedure laid down in the amended British Indian Criminal Procedure Code certain questions as to constitution of Benches will it is understood arise and for these there is said to be at present no provision in the law so far as the State is concerned. In this view it would seem that the best course to follow on this file is to ascertain what these points which arise on that file are and to urge them and say that an argument in our favour the only procedure that can be applied being the procedure

NOTE—Contn. Sheet

Serial No.

procedure of the new code it follows that Magistrates in Mysore should be invested with powers to try these cases in the same way as Magistrates in British India.

139) The Dewan called for this file on the 15th February 1926 and returned it with orders that it should be re-submitted in three days stating the reason for the delay and the Chief Secretary told me yesterday that it was not necessary to wait for the point raised on Mr. King's case being settled but it may be referred to if necessary.

A draft is accordingly put up. The details of statistics asked for in the Residency letter of 24th July 1924 are not easily available. Besides the formal requisition to the Districts I had informal enquiry made if details of reasons for the failure of cases before Justices of the Peace could be got from the Chief Court. I understand that this is not possible and that all the available information is given in the Administration Reports of the Department. This is stated in the draft and a few cases which are referred to in the reports received from the Districts are mentioned in it to illustrate the kind of difficulty felt by parties and witnesses in these cases.

141) The point raised in connection with Mr. King's case is referred to in paragraph 4.

142) The draft is for consideration and orders.

143) I have consulted Mr. Ghani regarding para 4 of the draft and the part of this note relating to it and made certain changes in them as suggested by him.

MG 18/2

Ch Secy)

144) I had not seen this file as the English had

NOTE—Contn. Sheet

Serial No

been written before I took charge. I do not consider the explanation of the Undersecretary for the delay in submitting the file satisfactory — It did not require all this time for him personally to study the points involved or take instructions from the Member. A draft has been supplied. If the lines are generally approved the wording may be improved.

(P.S.) The points are (1) we can take no action for revising the Criminal Procedure Code unless the Govt of India decide whether the existing procedure is to continue or the amended procedure introduced into Bar India is to be in force. Any amendments to be made have to be passed by the Legislative Council and they are likely to abolish all racial distinctions. We have now two Justices of the Peace one of whom is the S.P. of Police - what is the position of the Justices of the Peace in regard to the jurisdiction over European British subjects now that Justices of the Peace qua judicial Officers for trying Europeans have ceased to exist under the British Indian Law

NOTE—Contn. Sheet

Serial No

if combined in bigger issues many difficult and complicated questions

146 Whether Europeans in byppore are aware of the change in really beside the point. Govt should not have made any advances on the subject. Europeans in India have not in favour of the change introduced into Br India as a body but having regard to the small number of cases they may not really object if the position is explained to them. As regard heinous offences to be tried in a Court of Session we can make suitable provision to ensure to them the privilege of being tried in a High Court. Under the laws to which subjects of Native States are subject in Courts it is difficult to formulate further practical proposals

147 The draft Council of the Chiefs suggested should in my opinion satisfy the desire to surround our persons representative of the Residency.

148 The matter may perhaps be discussed at the next meeting of Council

1st March 1926

Dewan

Note—Contn. Sheet

Serial No

(149) The file relating to Mr Kirpi case in which the question of the jurisdiction of the Police in trying Europeans ~~in~~ after the recent amendment of the Cr P C in British India has been referred to Govt of India Secy may be put up for orders

20/2

22/2

Subd.

(150) The file referred to above is herewith linked.

22/2.

18th member.)

22/2/26

609
22.2

(151) There is no 'marks' now ~~ordered~~ in the decisions in Council as suggested by Chief Secy in his note dt 19/12/22

Before the question is taken up for decision in Council, a week reminder dtd 9/8/24 may be put up.

(152) The orders dtd 9/8/24 put up with Corrections in pencil (by Chief Secy) does not serve the required purpose.

I shall take the Secy & the stenographer ~~to his room~~ & a neat copy of the draft put up for submission & his decision & consideration in Council if necessary.

16/2/26

~~to the Secretary in dt 9/8/24~~

dt 18/2/26.

dt 18/2

Note—Contn. Sheet

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153 Subd for any further instrs re the levies on which the draft has to be revised as mtd by the Member I shall then add any details req'd & mbt a fair copy

Chfsy 19/3

Place it before Mr Bhargava 20/3.

Chfsy

Read back from Mr D's 22/3/24 for a ~~Despatch~~ Draft as S of instructions.

156 Draft previously put up is curtailed and a fair draft put up.

157 Mr Singaram has seen the draft. He studied the case and thinks that the argument re. machinery under the new Act could need not be used now.

Chfsy.

158 Draft as now revised may be issued.

Member 23/3/24

Dewan

775/273

Secretariat

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Put up with the other file traced back to-day

MW 18/4

679
23.4.26

NOTE—Contn. Sheet

Serial No.

163) There is no harm in making this reference to Chief Court who are moved to ~~pass~~ State their view of the practical difficulties existing in the trial of European Br subjects by a J. P. under the new Cr. P. Code in force in Br India.

1st Member.

26/4.

164) Dr in new Dy I ~~Secy~~ Secy. 26/4
court ~~—~~ appl from may be moved.

28/4

28/4

165) For perusal before put as the file has not passed through the Ch Secy.

Ch Secy.

28/4

29/4

727
26/4/26

166) Done
30/4

18

To the Registrar, Chief Court, Letter no. G. 8867/P.P. 13.25-18 dated the 1st May 1926, calls for opinion as to the legal & other difficulties felt in the trial of European British subjects under the Criminal Procedure Code as now in force the State of & the changes in the existing law & procedure

NOTE—Contn. Sheet

Secretariat | P.P. File No. 13 of 1924-5

Serial No. 19.

From The Registrar, Chief Court No. D.B. 14/26-27

Furnishing the opinions of the Chief Court in regard to the Revision of Procedure now in force in the state ~~in regard~~ for the trial of Europeans.

167) Sibd

9.7.26 168) This communication is in reply to the request we made in SC 18 that the opinion of the Ch Court might be furnished as to the legal and other difficulties felt in the trial of European British Subjects under the procedure now in force in the State and whether ~~any~~ in view of the amendment of the procedure in British India any change of procedure is necessary in the state and in what direction. This information was required in order that we might address the Residency on the subject of modifying the present procedure. The Chief Court gives a history of the procedure now in force and state that as far as they are aware no difficulties

NOTE—Contn. Sheet

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have been held in the trial of European British subjects under the present procedure except on the score that there are not enough Justices of the Peace and that in consequence parties and witnesses have had to be taken from place to place They state that the change of procedure that may be effected cannot be stated until it is known to what extent the Governor General is prepared to delegate powers to HH the Maharaja. They suggest that if any change in procedure is to be made at all it may be in the direction of the Act of 1894

169) This suggestion is not of any help in this case. The position here is as follows:— The British Indian Criminal procedure Code was modified as a result of the Racial Distinctions Committee's report enabling Indian Magistrates in Br. India under certain conditions to try European British subjects. We requested the Residency to move the Government of India to agree to our Magistrates trying European British subjects in the same manner as Indian Magistrates in British India. We put the request on the following grounds: (1) the

Flag R

NOTE—Contn. Sheet

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existing arrangement is inconvenient to parties and witnesses; (2) it is desirable to place the magistrates in ~~Travancore~~ Cochin on the same footing as Indian Magistrates in British India; (3) the change is not likely to be unwelcome to the British subjects in the State. The Residency asked in reply for statistics to show the inconvenience caused by the present procedure and enquired whether the Resident might ascertain the opinion of the European Br. subjects in the State which, we had said, would not be against the change. To this letter we have not yet sent a reply.

170) For while we can give some statistics to show that inconvenience is caused by parties and witnesses having to go long distances, we are not able to say that the Resident may make the enquiry suggested of the European British subjects in the State. Two of their associations have been consulted and one of them has given a non-committal answer and the other wants some assurances before agreeing to the change. If the Resident makes

Not Complete

Serial No.

any enquiry of them, leaving them complete option as regards the reply they are more likely to object than to agree to the change.

171) The fact is that we made a tactical mistake in saying to the Residency that the European British Subjects in Mysore would not object to the change. The suggestion ~~was~~ was unnecessary. A change was made in British India which showed that Englishmen did not object to be tried by Indians in particular conditions. That by itself was sufficient justification for our asking that the change might be introduced here on the same conditions. Our request is one which should hold good even if the European British Subjects in the State objected. But as the statement was made the Residency made use of it to put off the request for change.

172) The best thing to do now would seem to be to give the Residency such statistics as we have to show that the present arrangement is causing inconvenience as regards the Abkari point say

NOTE—Contn. Sheet

Serial No.

that we believed that the change would not be unwelcome to the Eur. Br. subjects in the State, ~~that~~ that they were not consulted but that consultation in such a matter would seem to be unnecessary, that the change would only result in procuring conditions here to which their compeers in British India have submitted, and that a continuance of existing conditions would be anomalous.

173) A draft to this effect will be put up if approved. Or the draft previously put up may be suitably modified for issue.

174) The suggestion of the Chief Court that if a change is made in the procedure it may be in the direction of the 1898 Act does not seem to require consideration here as it does not support the case which we have tried to make out with the Residency. What we want is the Indian Magistrates in the State should be placed in the same position as Indian Magistrates in Br. India. This convenience and nothing less would meet the requirements of the case. This suggestion is however to be

NOTE—Contn. Sheet

Serial No.

DEWAN'S OFFICE.
28. JUL. 1926
Reg. No. 653

considered as an alternative the protection branch may be consulted as to all the changes that will be necessary ~~[illegible]~~ in the present law.

175) For orders.

Chief Secy

[illegible] 22/7

176) Dft previously put up is modified and subd for orders

[illegible] 24/7

Ch Secy.

177) It seems true as I have already suggested that the proposed [illegible] is the only way of getting out of the difficulty. [illegible] have every reason to ask that a change of law [illegible] in Br India should be [illegible] also here and withdraw privileges not [illegible] allowed in 'British India'. Draft may be [illegible]

[illegible] 26/7/26

[illegible] 27.7.26.

1st Member
Dewan Chr.
[illegible]

[illegible] 28/7

Read back for putting up [illegible] [illegible] [illegible] [illegible] 26/7

This [illegible] put up

[illegible] 26/7

OFFICE OF THE
FIRST MEMBER OF COUNCIL
28 JULY 1926
No. 1062

If the Connected Imperial Seminary Case is to be considered in Council on Thursday next the case may be returned [illegible] that date

[illegible] 24/7

Date of submission	Date of Return	Date of issue of orders in the Secretariat	Remarks

The past handling of this somewhat difficult and delicate case does not appear to me to be altogether happy. The Chief Secretary's letter to the Residency dated 17th July 1924 contains some rather doubtful and awkward statements.

(77) It may be a fact that two Justices of the Peace have to do the bulk of the criminal work pertaining to European British subjects; but to say categorically that this "causes considerable hardship to Mysore subjects and often results in a miscarriage of Justice", is to lay an exaggerated emphasis on a relatively minor inconvenince.

(80) The admission made that "the distinction between an Indian subject and a European British subject is natural enough and is easily understood by the people" is calculated to give away an important aspect of our case, instead of strengthening it; while the remark about the supposed effect of the Racial Distinctions Act in "creating" for the first time "now" a distinction as between the Mysore Magistracy and that of British India, is incorrect as a statement of fact and not particularly impressive as an argument.

(81) It was scarcely necessary or politic at that initial stage of the case to have expressed our readiness to make concessions, going beyond the position accepted as sufficient for British India, as regards the trial of cases; the better course would have been to wait and see what the Government of India would wish to suggest in the way of additional safeguards.

(82) An even more serious error of judgment underlies the statement that "the Government of His Highness the Maharaja are <u>sure</u> that the change <u>will not be unwelcome</u> to the European residents in the State"; this, not unnaturally, has elicited the enquiry whether we shall have any objection to the Hon'ble the Resident addressing

WD 1938—GPB—500—2-33

confidentially the United Planters' Association and the Kolar Gold Fields Mining Board. We cannot well demur to his doing so, though it is more than doubtful whether the result of such confidential consultation will tend to corroborate our too confidently expressed anticipations. It will be rather awkward to have to explain away what was said; but there seems to be no other alternative.

(81) I doubt whether it was quite the right and proper thing for Government to have tried to forestall the Residency in the matter of ascertaining the views of the Mining Board and the Planters' Association. It might be different if we had merely sounded individual representatives of the European community. The inexpediency of the course adopted is practically demonstrated by the nature of the replies we have received from the two bodies: the Mining Board has avoided committing itself with the Durbar to any opinion of its own, while the Planters' Association wants special assurances before furnishing an opinion. As it is, I do not think we need make explicit mention of the enquiry or its result in our reply to the Residency.

(82) The draft letter proposed to be sent to the Residency may be revised and amplified on the following lines:-

(83) In furnishing the Residency with the figures asked for, we may observe that, while the inconvenience to parties and witnesses in having to go all the way to Bangalore or the Kolar Gold Fields in order to appear before a Justice of the Peace (not to speak of trials before the High Court at Madras) is undoubtedly real, and cannot but have some influence on the volume of complaints preferred and the number and quality of the witnesses available for examinatio

WD 1938--GPB—500—2-5-23

this is not a fact that usually finds mention in the records of cases, apart from comments in judgments on the strength and credibility of evidence adduced. Also, the results of trials before the Madras High Court are not fully available, and hence are not included in the statement.

(16) Next, it may be stated that His Highness' Government can have no objection to the Hon'ble the Resident confidentially addressing the United Planters' Association or the Kolar Gold Fields Mining Board in the matter of the proposed change, should such a course appear to him necessary or advisable. In this connection it seems desirable to explain that it was not the intention of His Highness' Government to suggest that the prospect of giving up a privileged position, especially in a matter of racial discrimination was likely, prima facie, to be unqualifiedly acceptable to any community. But they do believe that, apart from considerations of sentiment, there are decided advantages, in such respects as the nearness of the venue of enquiry and trial and the resulting economy of time and trouble and money, which are calculated to recommend the change, when made, to the particular community affected by it. As a matter of fact, it is believed, as the result of informal enquiries made on behalf of Government, that no very serious objection is likely to be raised to the principle of the measure; namely, the extension to the Mysore State of a reform which public opinion in India as a whole has long insisted upon, and which the Government of India, after careful investigation by a representative Committee of both Europeans and Indians, and after making all proper provision for safeguarding the

WD 1938--GPB--500--2-5-23

reasonable interests and susceptibilities of European British subjects, have felt it incumbent to sanction for British India, a reform, it must be added, in which the community affected has itself acquiesced with characteristic good sense and loyalty to the national sentiment.

(87) While the racial aspect of the question is common to Mysore with the rest of India, His Highness' Government are glad to think that the relations between the European and Indian communities within the State have been, if anything, closer and more cordial than elsewhere. And they are sincerely desirous that the continuance of the good understanding should not be impaired by the indefinite perpetuation of privileges and distinctions which are no longer found necessary or desirable in British India, and which after all relate primarily to that small handful of individual European British subjects who may happen to be accused of crime.

(88) In any decision of the question as affecting the Indian States generally, the quality of the administrative machinery will no doubt be an important consideration; and in this respect His Highness' Government venture to submit that the case for Mysore stands on an exceptionally strong footing. They do not wish to labour the point in this connectio but will content themselves with recalling the generous and unstinting testimony borne by no less a personage than His Excellency the Viceroy Lord Reading, on the occasion of his visit to Mysore in November 1923 to "the sound traditions of administration prevailing in Mysore" as well as to the fact of His Highness the Maharaja having always made "efficiency in his Government" his "watchword". Speaking particularly, His Highness' Government believe that the qualifications of the Magistracy in Mysore and the quality of criminal justice administered are not

WD 1938—GPE—500—2-5-28

Date of submission	Date of Return	Date of issue of orders in the Secretariat	Remarks

inferior to those obtaining in the provinces of British India outside of the Presidency towns. And it may be added that His Highness' Government are always prepared to consider and effect such improvements as may be necessary to ensure the general standard of efficiency being maintained at its proper level.

(189) It may be mentioned also that Magistrates in Mysore, though not given the power of trial, have nevertheless for forty years (since the decision of His Excellency the Governor-General of India in Council, communicated to the Durbar in the Resident's letter of 4th March 1886) been empowered to exercise with respect to European British subjects the same powers as are exercisable by Magistrates who are not Justices of the Peace in places in British India beyond the limits of the Presidency towns. Now that the powers of the latter have been enlarged as the result of the Racial Disabilities Removal Legislation of 1923, His Highness' Government earnestly hope that it may be found possible to enhance to a corresponding extent the powers delegated to Magistrates in Mysore.

190) The revised draft may kindly be circulated to the Members of Council and the file brought up for consideration at an early meeting of the Council.

1718/11/8

191) Draft prepared & the Below mentioned may in the above lines is circulated

1st Member 192) 10/8/26

2nd Member 193) 11-8-26

WD 1938- GPB—500- 2-5-28

1084/11/6

Extract from the Proceedings of the 781st *Meeting of the Council of His Highness the Maharaja, held at Bangalore on the* 30th August *1926*

61. Revised draft letter to the Residency regarding the trial of European British subjects in the State for offences committed by them.

....

194) OPINION OF THE COUNCIL.

Draft letter may be approved.

- - -

Letter D-SW

8
11/9/26

Devan

"EXTRACT"

Chief Secretary to Government.

WD 1471—GPB—2,000—1-3-21

Serial No

I shall be glad if the Local and Legislative Secretary will kindly scrutinise the draft letter to the Residency and submit the file to me early.

9.9.26

JM
9.9.26

I Submit that another aspect of the case may perhaps be presented to the Residency.

It is settled law that the Justice of the Peace in Mysore is empowered to administer the law in force in British India.

The law as regards European British Subjects has been very materially altered by Act XII of 1923, & in consequence Special provisions (Sections 443 - 449) in Cr. P. C. as amended are introduced.

The result of this amendment is that an accused may claim to be tried by under the provision of Ch XXXIII, that if it is decided that he shd be tried under the provisions of that Chapter, the accused has to be tried by a Bench of Magistrates (one to be an European B^r Subject & the other an Indian Magistrate) in Summons cases & in warrant cases he should be committed to the Court of Sessions. (vide Sections 445 & 446).

According to the ~~previous~~ existing case a Justice of the Peace in Mysore had to commit the accused to the High Court, Madras.

Since the Cr P. C of 1898 is no longer law in force in B^r India there is practical difficult

NOTE— Contn. Sheet

Serial No.

in applying the new Cr. P. Code as amended in Mysore by the Justices of the Peace in Mysore.

The new law contemplates District Magistrate who has to constitute a Bench under Sec 445 & a Sessions Judge under Sec 446.

Who are these authorities in Mysore State that are to be appointed by the Viceroy.

Hence The Govt. has to alter the notification empowering the High Court Madras to try these offenders & empower Indian magistrates to form a Bench, & appoint District Magistrate & Sessions Judges to try these Cases under the new Act.

20) These difficulties may perhaps be pointed out & urge the necessity of transferring powers to the Govt & to give sanction to introduce these Special Provisions into our Code.

Dewan. 11.9.26

DEWAN'S OFFICE.
Received on
13. AUG. 1926
Reg. No. 1929

21) Will you Honor draft a paragraph on the lines suggested as an addition to the draft bill to the Resolution. Mr. Ajit Prasad to the 1st Member in the first instance.

12.9.26

Submitted 13.9.

22) I have suggested one paragraph to be inserted just before the last paragraph in the proposed draft

1st Member The portion marked A. may perhaps be omitted as it involves a Committal. 13.9.

NOTE—Contn. Sheet

Serial No.

DEWAN'S OFFICE.
Received on
15. SEP. 1926
Reg. No 2030

What we are aimed at is most difficult of achievement; and the two suggestions put forward by L.L. seem both bad, I am afraid, to add to the difficulty. Portion A in the draft is one of the points, perhaps the chief one, that might lead the Govt of India to consider the case, & I think it may stand. The proposed add^l para of L.L. seem to invite attention to a difficulty that we have no European Ist Cl. Magistes & to close the matter. If the difficulty is perceived by Govt of India now or later, the best Solution ~~may be have to be to appoint~~ will then have to be found & pointed out to them.

2979
13/9

Dewan) I would send the letter as it without any addition or omission

Sd
14/9/26

Dewan.

DEWAN'S OFFICE.
Received on
14. SEP. 1926
Reg. No 1983

26b) I agree
With the Member.

Sd
14.9.26

Sd
14.9

NOTE—Contn. Sheet

Submitted to His Highness.

When I was examining the Internal Security Scheme, I found that the question of the trial of European British subjects residing in the State for offences committed therein had been incidentally dragged into the case and that the main issue had been lost sight of owing to certain doubtful and awkward statements in the previous correspondence. I, therefore, recorded a minute reviewing the whole position and indicating the lines on which we might address the Residency in order to secure for the State also the removal of racial discrimination in regard to the trial of offences as in British India.

A draft letter to the Residency has been prepared on the lines of my note. This was considered in Council at the meeting held on 30th August 1926. The Council have resolved that the draftletter might be approved.

It is very necessary that endeavours should be immediately made to bring our law into line with that of British India and set this question at rest early.

The Resolution of the Council may be graciously approved.

Mirza M. Ismail

Bangalore,
17th Septr.1926.

Record of Cases submitted for the Orde
of His Highness the Maharaja.

Subject.

Draft Letter to the Residency regarding the trial of European Britis Subjects in the State for the offences committed by them.

554

Order.

KRW
30/12/26

(illegible)
31.12.26
8
3/1.

General and Revenue Secretariat

147 C71 174

Draft letter to the Residency re: the trial of European British Subjects in the State for the Offences Committed by them

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circlated to the Members of Council at headquaters and then sent to the Secretariat coneerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before /after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.
(In charge).

Through the Secretary to Government,

.....Department.

6867/4/1

FIRST MEMBER OF COUNCIL. 4/1/27

4572/4/1

SECOND MEMBER OF COUNCIL. 4.1.27

~~EXTRA MEMBER OF COUNCIL.~~ By Issue off

Gf Secy.

5/1

5/1

NOTE - Contn. sheet.

WD 01264—GPB—40,000 17-12-35

[App. F. III—2

General and Revenue Secretariat

P. P. File No. 13 of 1924

Serial No. 21

To

The Secy to the Resident
No Pol Sq, A. 2/11/27
Furnishing the
information called for
in Sl 2 and requesting
in the circumstances
stated that the proposal
may be placed before
the Govt of India.

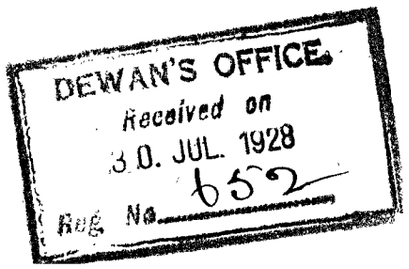
Sent 19/11/27

C. B. 305

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]



From

The Secy to the Resident

No 6902 of 23/7/28

Requesting to be informed of- Here is any objection to bringing official record the demi-official correspondence re trial of European British Subjects. Sikh with a draft reply.

24/7

Chiefsecy

VS 24/7

nm 25/7

Issued 26/7

Subs for perusal.

nm 27/7

Third Member

Dewan

nm 11/8

31-7-28

ku 28/7

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

File No. 13-24

Serial No. 21

Sus. Regr. No.

Shall a reminder issue to

Secy to the Resident

for a reply to this Office No. 202 S/1 dated the 27.1.29

Subject.

Re: Trial of European British Subjects by Offences Committed in State

file put up with 2000 CB 3554.
CA 200-28-1 (2000 4354/P)
M 30/3/29. Answered on
letter M-5R

R
30/3

Submitted
This may perhaps
lie over for the present—
in view of the discussions
going on re the R. T. conference
wherein this question may also
come up for consideration
Ray
23/3/31

REMINDERS.

	Date	

Recd
24/3/31

(B d Sec)

C. O. 2.—R. P. B.—12-1922.—2,000.

No. 72-21 Enclos. 5. Dated Bangalore, 2nd February 1923.

Fn 1058

From

E Williamson Esq., I.C.S.,
Secretary to the Chief Commissioner of Coorg.

To The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

Sir,

I am directed to forward for the information of His Highness' Government 5 copies of the Report of the Racial Distinctions Committee.

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to the Chief Commissioner.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, the *191*

Date of issue 7th February 1923

Signed by Jm. K. Maclean.

Section

File No.

Serial No.

No. Pol 721

To

The Secy to the
~~Resident~~
Chief Comm of Coorg

Sir,

I am directed to acknowledge with thanks the receipt of 5 copies of the Report of the Racial Distinctions Comm forwarded with 2/Nov Letter No 412/72-21 dated the 2nd inst.

I have the

over. Yours

for Chief Secy

2/18

D.O. 2298-9 CB 17/1/24

Dear Mr. Verghese,
Krishna Pillai

Can you kindly let me have some information as to the extent of jurisdiction, if any, exercised by the Travancore State Courts over European British subjects resident in the State? You have perhaps seen an article on 'Racial Distinctions' by Achyuta - - Menon in the Indian Review of June 1923. In this reference is made to the conferring of a limited jurisdiction on certain magistrates in Travancore and Cochin. I should like to have as clear an information on the point as possible. Are Justices of the Peace appointed by the Governor General or by the Travancore Government? Do Indian District Magistrates or any other Magistrates exercise jurisdiction over European subjects? What jurisdiction has the Travancore High Court in the matter? Do appeals from the decisions of the Justices of the Peace come up to the Travancore High Court? I believe cases for the Sessions are committed to the Madras High Court.

Yours sincerely,

G

To
(i) P.J. Verghese Esq., B.A., B.L.,
Judge of the High Court, Trivandrum.

(ii) R. Krishna Pillai, Esq., M.A., B.L.,
Chief Secretary to Government,
Trivandrum.

Trivandrum,

23rd January 1924.

Dear Mr. Mathen,

I am in due receipt of your letter of the 17th January. The subject of the trial of European British Subjects in Travancore is dealt with in:--

(1) The Royal Proclamation of 16-10-1050/28-5-1875

(2) The Royal Proclamation of 22-3-1051/6-11-1875 and

(3) Chapter 32 of the Travancore Criminal Procedure Code of 1067/1892.

By the Proclamation of 1050, the Travancore Criminal Courts were divested of their jurisdiction to try European British Subjects, and "Special Magistrates being European British Subjects whom We may from time to time appoint", were given this jurisdiction. These Special Magistrates had power to pass any sentence not exceeding three months' imprisonment and fine up to one thousand rupees. "In regard to committab cases, the enquiry and committal will proceed by virtue of appointments" made by the Governor-General. This proclama did not affect the power of the ordinary courts to take cognizance of contempt of courts.

60

By the proclamation of 1051, "the Christian Judge for the time being of Our Sadir Court (now High Court) being a European British Subject" was appointed Special Appellate Judge, to hear and dispose of appeals from the decision of the Special Magistrates.

Chapter 32 of the Travancore Criminal Procedure Code corresponds to Chapter 33 of the British Indian Criminal Procedure Code with the necessary changes. In the former "Special Magistrates" is substituted for "Justice of the peace . . . . British Subject" in the latter. The jurisdiction of the ordinary court to deal with cases of contempt is reasserted.

There are three Special Magistrates in Travancore (Messrs. Cameron, Macmillan and Pryde) and one Special Appellate Magistrate (Mr. Chatfield) appointed by His Highness the Maha Rajah. There are five Justices of the Peace who were appointed by the Governor-General (Messrs. Chatfield, Robinson, Pryde, Cameron and Macmillan) to deal with "committal cases".

61

I read the article in the Indian Review. That speaks of the incidents that led to the Proclamation of 1075.

Yours sincerely,

P. Varughese

6-1

R.Dis.No. 230 of 1924 Judicial.

Trivandrum,
31st January 1924.

Please file with Rami matters

Dear Mr. Mathan,

With reference to your D.O.No.2299/C.B, dated the 17th January 1924, re: jurisdiction of the Travancore State Courts over European British Subjects, I write to inform youthat, as regards Civil Jurisdiction, the Courts exercise entire jurisdiction.

2. As regards Criminal Jurisdiction, copies of Royal Proclamations passed under dates the 28th May and 6th November 1875, as also Sections 333 to 344 of the Travancore Criminal Procedure Code, pertaining to the subject, are enclosed. It will be seen therefrom that the ordinary Criminal Courts of this State have no jurisdiction to try offences committed by European British Subjects and that such jurisdiction is exercised exclusively by Special Magistrates, being European British Subjects, appointed under the Proclamation dated the 28th May 1875. Particulars relating to the other points, referred to therein, are given below:-

(i) Except where a separate territorial jurisdiction is assigned and notified in the Travancore Government Gazette, a European British Subject charged with the commission of an offence shall be tried by the Special Magistrate whose station

6 2

is nearest to the scene of the offence, unless the case is transferred to another Special Magistrate (Vide Section 2 of the said Proclamation).

(ii) Special Magistrates for the trial of European British Subjects in Travancore are appointed only after they are made Justices of the Peace by the Governor-General in Council, under the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf.

(iii) Appeals from the decisions of the Special Magistrate do not come up before the Travancore High Court, but are heard and disposed of by the European Judge of that High Court appointed and styled "Special Appellate Judge" under the Proclamation dated the 6th November 1875.

(iv) Cases for the Sessions are committed generally to the Madras High Court (Vide also Section 338 of the Travancore Criminal Procedure Code).

Yours sincerely,

R. Macdonnell

Proclamation.

By His Highness the Maha Rajah of Travancore, issued under date the 16th Edavam 1050, corresponding to the 28th May 1875.

Whereas in communication with the Government of India, We have found it necessary to make special arrangements for the trial of European British Subjects, committing offences in Our territories:-

1. We do hereby divest Our ordinary Criminal Courts of every grade of jurisdiction to try offences committed by European British Subjects, and do further declare that such jurisdiction shall, from and after the date of this Proclamation, be exercised exclusively by Special Magistrates, being European British Subjects, whom We may from time to time appoint, such appointments being notified by the Dewan in Our Government Gazette.

2. Except where a separate territorial jurisdiction is assigned and notified in the Gazette, a European British Subject charged with the commission of an offence shall be tried by the Special Magistrate whose station is nearest to the scene of the offence, unless by Our authority the case is transferred to another Special Magistrate.

3. We are further pleased to confer the following powers upon such Special Magistrates:- namely, power to pass, on conviction, any sentence not exceeding three months' imprisonment or fine up to one thousand British Rupees or both.

4. A Special Magistrate, appointed under this Proclamation for the trial of European British Subjects, shall not

take cognizance of offences committed by other subjects, unless he is also an ordinary Magistrate authorized by law to take cognizance of such cases.

5. In regard to committable cases, the enquiry and committal will proceed by virtue of appointments to be made and powers conferred by His Excellency the Viceroy and Governor-General.

6. Nothing in this Proclamation shall be understood to prevent Our ordinary Courts of whatever grade taking cognizance as hitherto of cases of contempt of Court by whomsoever committed.

7. The special arrangements herein made are not intended to relieve Our ordinary Police, and Magistrates and Sub-Magistrates acting as Police officers, from the functions they have hitherto exercised as such, in respect of European British Subjects.

Proclamation.

By His Highness the Maha Rajah of Travancore, issued under date the 22nd Thulam 1051, corresponding to the 6th November 1875.

--

Whereas, in communication with the Government of India, We have found it necessary to make arrangements for the hearing and disposal of appeals from the decisions of the Special Magistrates appointed under Our Proclamation dated the 16th Edavam 1050, corresponding to the 28th May 1875, and for revising their proceedings; We do hereby constitute and appoint the Christian Judge for the time being of Our Sadir Court, being a European British Subject, to be Special Appellate Judge, to hear and dispose of appeals from the decisions of the Special Magistrates appointed under Our Proclamation above recited, and to revise their proceedings according to law, hereby conferring on him the necessary Appellate Jurisdiction and the same punitive powers as are conferred on Our Special Magistrates under the above Proclamation.

2. And whereas, by Our said Proclamation, power was reserved to Our ordinary Courts of every grade to take cognizance of contempt of Court by whomsoever committed, which power it is necessary to define here, so far as European British Subjects are concerned; We hereby direct that Our ordinary Courts aforesaid shall be competent to take cognizance of such cases of contempt only as are cognizable by any Civil, Criminal or Revenue Court in British India under Chapter XXXII of Act No.X of 1872, and subject to the provisions of that Act in respect of procedure and punishment.

f.6

Cases of contempt of Court, not falling within the above para, and of which European British Subjects are accused, shall be referred, under the procedure indicated in the Act aforesaid, to the proper Court having jurisdiction in the case.

REGULATION V OF 1067.

THE CODE OF CRIMINAL PROCEDURE.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXII - Criminal Proceedings Against European British Subjects.

--

Magistrates who may inquire into and try charges against European British Subjects.

333. No Magistrate, unless he is a Special Magistrate appointed under Royal Proclamation dated 16th Edavam 1050, corresponding to 28th May 1875, shall inquire into or try any charge against an European British Subject, except in cases of contempt of Court falling under Section 359 of this Code.

Sessions Judge not to have jurisdiction over European British Subject except in cases of contempt.

334. No Judge presiding in a Court of Session shall exercise jurisdiction over an European British Subject, except in cases of contempt of Court falling under Section 395 of this Code.

Cognizance of offence committed by European British Subject.

335. Nothing in Section 333 or Section 334 shall prevent any Magistrate from taking cognizance of an offence committed by any European British Subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British Subject accused of an offence, such process shall be made returnable before a Special Magistrate having jurisdiction to inquire into or try the case.

Sentences which may be passed by Special Magistrates

336. No such Special Magistrate shall pass any sentence on an European British Subject other than imprisonment for a term which may extend to three months, or

fine which may extend to one thousand British rupees, or both.

Special Appellate Judge to hear appeals.

337. The Special Appellate Judge appointed under Our Proclamation dated 22nd Thulam 1051, corresponding to 6th November 1875, (25th Kanni 1084, corresponding to 10th October 1908, and 9th Chingom 1088, corresponding to 24th August 1912) (a), shall hear and dispose of appeals from the decisions, of Our Special Magistrates and shall revise their proceedings.

(The Special Appellate Judge may also transfer any case inquiry, trial or other proceeding, from any Special Magistrate subordinate to him to any other such Magistrate, after recording in writing his reasons for making the same.) (a)

When commitment to be made to a higher tribunal.

338. When an European British Subject is accused of any offence before such Special Magistrate, and such offence cannot, in the opinion of such Magistrate, be tried by him or be adequately punished by him, he shall commit him to such Courts as His Excellency the Viceroy and Governor-General of India has appointed or may appoint, and follow such law and procedure as are in force in British India in respect of the commitment of European British Subjects.

Procedure on claim of person to be dealt with as European British Subject.

339. When any person claims to be dealt with as an European British Subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial: and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time, within which to prove that it is true, and shall then decide whether

(a) Added by Regulation VII of 1088.

he is or is not an European British Subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

When any such person is committed by the Magistrate for trial before the Court of Session and such person before such Court claims to be dealt with as an European British Subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British Subject and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

When the Court before which any person is tried decides that he is not an European British Subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

340. (1) If an European British Subject does not claim to be dealt with as such by the Magistrate before whom he is brought, he shall be held to have relinquished his right to be dealt with as such European British Subject, and shall not assert it in any subsequent stage of the same case.

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a Subject or not.(a)

Right of European British Subject unlawfully detained to apply

341. When any European British Subject is unlawfully detained in custody by any person, such European British

(a) Added by Regulation II of 1090.

/for order to be brought before Special Appellate Judge.

Subject or any person on his behalf, may apply to the Special Appellate Judge for an order directing the person detaining him to bring him before such Special Appellate Judge to abide by such further order as he may pass.

Procedure on such application.

342. The Special Appellate Judge, if he thinks fit, may before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or he may issue the order in the first instance, and, when the person applying for it is brought before him, he may make such further order in the case as he thinks fit, after such inquiry (if any) as he thinks necessary.

Conduct of Criminal proceedings against European British Subjects before Special Magistrate and Special Appellate Judge.

343. Criminal Proceedings against European British Subjects, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

Special Appellate Judge's power of revision.

344. The Special Appellate Judge appointed under Royal Proclamation dated 22nd Thulam 1051, corresponding to the 6th November 1875, may exercise all or any of the powers conferred upon the High Court by Chapter XXXI, in respect of cases tried or triable exclusively by Special Magistrates:

Provided that, he shall not pass any higher sentence than a Special Magistrate is empowered to do under Section 336.

Memo WD 2818-G PB - 15-6-28

W.O. 2586/C.B. 17/4/24

Dear Mr Venkatachelli,

I am much in receipt of your letter of the 31st ult & R. No. 230 of 19th of the ~~same~~ month with the matter of Prejudice of the Fr. State Courts over European subjects; ~~the information transmitted~~ so ready furnished. Please accept my thanks for the full & complete information on the subject

Yours sincerely

G

To

The Secretary to the Hon'ble the
Resident in Mysore, Bangalore.

Sir,

I am directed to invite kind reference to Mr. Williamson's letter No.412/72-21 dated 2nd ~~July~~ February 1923 and to address you on the question of the procedure relating to the trial of European British Subjects residing in the State for offences committed therein.

X Not printed. [Forwards 5 copies of the Report of the Racial Distinctions Committee]

At present plenary Criminal Jurisdiction over European British Subjects resident in the State is vested in the Governor General in Council under Article 16 of the Mysore Treaty and His Highness the Maharaja can exercise only such jurisdiction as may be delegated to him by the Governor General in Council. The only delegation so far made is that relating to the exercise by ~~our~~ Magistrates and Police Officers of the powers entrusted to Magistrates and Police Officers in British India outside the Presidency towns, but the power to try European British Subjects for offences committed ~~within~~ in ~~our~~ the State has not been given to local Magistracy and the offences committed by them are to be tried by the Justices of the Peace appointed by the Governor General. There are now three Justices of the Peace in the State and as one of

them is the Inspector General of Police, who cannot try Police cases, the criminal judicial work concerning European British Subjects as accused is practically done by the remaining two Justices of the Peace. This causes ~~a lot of~~ considerable hardship to Mysore subjects and often results in a miscarriage of justice. Witnesses from distant parts of the State have to come to Bangalore or the Kolar Gold Fields to give evidence, and in order to avoid inconvenience and trouble of long journeys and frequent and prolonged absence from home, they are reluctant to come forward and give evidence in cases. This evil was till some years ago common ~~in~~ to both Mysore and British India, but it has to a ~~grant~~ great extent been minimised in ~~the latter~~ British India country by the passing of the Racial Distinctions Act under which Indian Magistrates can try, under certain conditions, European British Subjects accused of offences ~~against the British Indian Subjects.~~ committed in British India

The Racial Distinctions Act has the effect of creating ~~an artificial~~ a distinction between ~~our~~ Magistracy and the British Indian Magistracy, as it confers upon the latter certain powers which are denied to the former. The distinction between an Indian subject and a European British subject is natural enough and is easily understood by the people, but the distinction now created between ~~our Magistracy~~ and the British Indian Magistracy,

both of the same stock, is galling to our people and the Government of His Highness the Maharaja think that it should no longer exist. It is no exaggeration to state that our Magistracy is ~~in a~~ highly efficient ~~condition~~. The Magistrates are mostly law graduates well trained in the practice of law and can well be relied upon for honesty and integrity of judgment. Our Criminal laws - the Penal Code and the Criminal Procedure Code - are similar to, ~~if not exactly the same as~~, those which are in force in British India, and our Magistracy which consists of a trained staff ~~on account of the introduction of~~ the scheme of the Separation of the Executive ~~a~~ from Judicial functions, can very well hold - trials by Jury. If necessary, the Govt. of Mysore are prepared to order that the Summons Cases may be tried by District Magistrates or Special Magistrates exercising appellate powers at District Head Quarters and warrant cases may be committed to the Court of Sessions. No difficulty will be experienced in the formation of ~~Juries~~ — Juries, as there are a sufficient number of European residents in all the Divisio and if necessary the Sessions trials will be held in the Planting Districts of Kadu and Hassan or at Bangalore and Mysore. The Government of His Highness the Maharaja are sure that the change will not be unwelcome to the European residents in ~~our~~

State, as it ensures ~~their~~ trial at District Head Quarters ~~at which~~ Sessions are also held and obviates the necessity of their complainant witnesses going long distances to the Courts of the Justices of the Peace. Besides the relation between them and European subjects the Indian subjects of His Highness the Maharaja are of the most cordial kind and under ~~our~~ Constitutional Reforms, Europeans have been admitted into the two Political Institutions of the State, viz. the Representative Assembly and the Legislative Council. The distinction as regards the mode of their trial will be a source of trouble in future and the Govt. of His Highness the Maharaja are anxious to avoid it as early as possible.

Madras when his accused are committed to the High Court.

This is a fitting opportunity to introduce the desired changes in the Criminal Procedure Code. The Government of His Highness the Maharaja contemplate the amendment of their Criminal Procedure Code on the lines of the British Indian Code, and if racial distinction in the State is removed as in British Inda, they would reproduce the provisions of the British Indian Act in respect of the trial of European British Subjects in their Criminal Procedure Code, with such modifications as may be suggested by his Presidency or any

At present the Special Magistrate, Kolar Gold Fields, exercises jurisdiction over Americans and Europeans other than British Subjects and other Indian Magis-

may be deemed necessary by the Special Court of Magistrate

trates

Magistrates can try them with the previous permission of the Hon'ble t h e Resident. No objection has been taken till now to the trial being conducted by an Indian Magistrate. What is the principle in Mahomedan law? Under these circumstances His Highness' Government ventures to think that there can be no serious obstacles to the grant of jurisdiction over t h e European British Subjects ~~also~~. I am accordingly to request that the Hon'ble the Resident may lend his kind and powerful support and obtain the favourable orders of the Government of India in the matter either by a suitable modification or Article 16 of the Mysore Treaty or by the delegation of the necessary powers under that Article.

I have etc.,

S V S

To

The Secretary to the Hon'ble
the Resident in Mysore, Bangalore.

Sir,

I am directed to invite kind reference to Mr. Williamson's letter No.412/72-21 dated 2nd ~~July~~ February 1923 and to address you on the question of the procedure relating to the trial of European British Subjects residing in the State for offences committed therein.

At present plenary Criminal Jurisdiction over European British Subjects resident in the State is vested in the Governor General in Council under Article 16 of the Mysore Treaty and His Highness the Maharaja can exercise only such jurisdiction as may be delegated to him by the Governor General in Council. The only delegation so far made is that relating to the exercise by Magistrates and Police Officers in Mysore of the powers entrusted to Magistrates and Police Officers in British India outside the Presidency towns, but the power to try European British Subjects for offences committed in the State has not been given to the local Magistracy and the offences committed by them are to be tried by Justices of the Peace appointed by the Governor General. There are now three Justices of the Peace in the State and as one of them is the Inspector General of Police, who cannot

try Police cases, the criminal judicial work concerning European British Subjects as accused is practically done by the remaining two Justices of the Peace. This causes considerable hardship to Mysore subjects and often results in a miscarriage of justice. Witnesses from distant parts of the State have to come to Bangalore or the Kolar Gold Fields to give evidence, and in order to avoid the inconvenience and trouble of long journeys and frequent and prolonged absence from home, they are reluctant to come forward and give evidence in cases. This evil was till some years ago common to both Mysore and British India, but it has to a great extent, been minimised in British India by the passing of the Racial Distinctions Act under which Indian Magistrates can try, under certain conditions, European British Subjects accused of offences committed in British India.

The Racial Distinctions Act has the effect of creating a distinction between the Mysore Magistracy and the British Indian Magistracy, as it confers upon the latter certain powers which are denied to the former. The distinction between an Indian subject and a European British subject is natural enough and is easily understood by the people, but the distinction now created between the Mysore Magistracy and the British Indian Magistracy, both drawn from the same class of

people, cannot be understood and the Govt. of His Highness the Maharaja are of opinion that there is no justification for it. The Magistrates in Mysore are carefully chosen and are quite efficient. They are mostly Law Graduates, well trained in the practice of law and can well be relied upon for honesty and integrity of judgment. The Criminal Laws in Mysore - the Penal Code and the Criminal Procedure Code - are to all intents and purposes identical with those which are in force in British India, and the Magistracy which consists of a trained staff under the scheme of the Separation of the Executive from Judicial functions, can very well hold trials by Jury. If necessary, the Govt. of Mysore are prepared to order that the Summons Cases may be tried by District Magistrates or Special Magistrates exercising appellate powers at District Head Quarters and warrant cases may be committed to the Court of Sessions. No difficulty will be experienced in the formation of Juries, as there are a sufficient number of European residents in all the Divisions, and if necessary the Sessions trials will be held in the Planting Districts of Kadur and Hassan or at Bangalore and Mysore. The Government of His Highness the Maharaja are sure that the change will not be unwelcome to the European residents in the State, as it ensures trial at District

Head Quarters where Sessions are also held and obviates the necessity of the complainant and witnesses going long distances to the Courts of the Justices of the Peace or to Madras when the accused are committed to the High Court. Besides, the relation between European British subjects and the Indian subjects of His Highness the Maharaja are of the most cordial kind and under the recent Constitutional Reforms in Mysore, Europeans have been admitted into the two Political Institutions of the State, the Representative Assembly and the Legislative Council. The distinction as regards the mode of their trial will be a source of trouble in future and the Government of His Highness the Maharaja are anxious to avoid it ~~as early as possible~~.

This is a fitting opportunity to introduce the desired changes in the Criminal Procedure Code. The Government of His Highness the Maharaja contemplate the amendment of their Criminal Procedure Code on the lines of the British Indian Code, and if racial distinction in the State is removed as in British India, they would reproduce the provisions of the British Indian Act in respect of the trial of European British Subjects in their Criminal Procedure Code, with such modifications as may be suggested by the Govt of India or as may be deemed necessary

under the special conditions of Mysore.

At present the Special Magistrate, Kolar Gold Fields, exercises jurisdiction over Americans and Europeans other than British subjects and other Indian Magistrates can try them with the previous permission of the Hon'ble the Resident. No objection has been taken till now to the trial being conducted by an Indian Magistrate. What the Government of His Highness the Maharaja ~~require~~ ask for is an extension of this principle to the case of European British subjects.

Under these circumstances His Highness' Government venture to think that there can be no serious obstacle to the grant of jurisdiction over European British subjects I am accordingly to request that the Hon'ble the Resident may lend his kind and powerful support to this representation and obtain the favourable orders of the Government of India in the matter either by a suitable modification of Article 16 of the Mysore Treaty or by the delegation of the necessary powers under that Article.

I have, etc.,

Chief Secretary to Govt.

D.O.No. 6333.

THE RESIDENCY,
BANGALORE.
Dated 9th August 1924.

CHIEF SECRETARY.
9 AUG 1924

Gm. 720
9.8.24.

P.P. 13-24-2

P.P

Please refer to your letter No. Pol.66 dated the 17th July 1924, I am to observe that the question you raise is a large one whose decision by the Government of India will affect other States besides Mysore since, although there may not be specific mention of the fact in all treaties, the right to try Europeans and Americans has hitherto in practice everywhere been reserved by the Government of India. In submitting your request to the Government of India it will be advisable to make the case as complete as possible and it is observed that you state that the present system causes considerable hardship to Mysore subjects and often results in a miscarriage of justice. No facts have been given in support of these statements and I am to ask that you will be so kind, if there is no objection, as to furnish this office with statistics showing the number of trials of European British subjects during the last ten years in the Mysore State with details of those which have failed for want of prosecution on account of non-appearance of witnesses or other similar causes.

You also say that the Mysore Government are sure that the change will not be unwelcome to the European residents in the State and I am to enquire whether you will have any objection to the Resident addressing the Secretary to the United Planters' Association of South India and the Kolar Gold Field Mining Board, confidentially, on the subject to ascertain their views. These two communities, viz., the Planters and the residents of the Kolar

Gold

Gold Field, are obviously those which are principally affected by the proposed change and, if they state their acquiescence in it, the Mysore Government's case will be clearly strengthened.

Yours sincerely,
Mysore

K. Matthan, Esq., B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

BJ

To

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

G 1675 82-3 30.8.24.

The Dist^t Magistrate
of Dist^t

Dear Sir,

I am desired to request you to kindly furnish for the information of Govt statistics showing the number of trials of European British Subjects during the last 10 years in your Dist^t with details of those which have failed for want of prosecution on account of the non-appearance of witnesses or other similar causes.

2. Besides cases actually filed, there may be ~~twenty~~ cases

This information can be gathered from the records of cases sent to your office for record by Justices of the Peace trying cases from your district.

WD 2230 -GPB—1,00,000—23-7-20

in which the parties ~~concerned~~ injured
did not wish to proceed to prosecute
~~with the case~~ owing to various
inconveniences. Statistics
relating to such cases
may also be kept
~~furnished if they could~~
~~be~~ collected from
Police reports and Diaries or other sources (such as
the definite personal knowledge of local people & Press) and
~~Offices~~. Yours Sincerely furnished on Card
or Sheets. The
Matter might be kept
heard on May
next.

Dw
20/Dec 53 Chief Secy

k

4

D. O. No.

Je 85
2m1

OFFICE OF THE ~~DEPUTY COMMISSIONER~~ District Magistrate,
KOLAR DISTRICT.

Dated Kolar, the... ~~15th~~ Sept *...1924.*

P.P. 13-24-4

Dear Sir,

In reply to your letter No.G.1675-82/ P.P. dated 30-8-1924, regarding the trial of European British subjects, I am directed to forward, herewith, a statement, containing the required information.

Yours sincerely,

C Ramachandra Rao

M. Venkatesa Iyengar Esq., M.A.,
Asst. Secretary to Government,
General and Reveneu Secretariat, Bangalore.

Statement showing the number of European British subjects tried during the last 10 years in the Courts of the Justices of the Peace in Mysore, Kolar Gold Field.

S. No.	Year.	No. of cases reported.	No. of British subjects concerned	No. tried	No. of cases failed on account of non-appearance of witnesses or other causes	Remarks.
1.	1914-15	17	19	19	-	
2.	1915-16	25	29	29	-	
3.	1916-17	4	5	5	-	
4.	1917-18	10	11	11	-	
5.	1918-19	14	14	14	-	
6.	1919-20	12	12	12	-	
7.	1920-21	9	9	8	1	This case was struck off the file as the accused was not traced.
8.	1921-22	4	4	4	-	
9.	1922-23	8	8	8	-	
10.	1923-24	7	7	7	-	
		110	118	117	1	

(2) In 4 cases reported to the Police the parties did not take action since they compromised.

Ref: on He. 168 24-25.

Forwarded to the District Magistrate, Kolar District, with reference to his Memo No.J.C.85 dated the 4th instant.

SUPERINTENDENT OF POLICE,
KOLAR GOLD FIELD.

11th September 1924.

JVN.

12/9/24

Office of the Deputy Commissioner,

Chitaldrug District,

Dated, Chitaldrug, 20th September 24.

P.P.

G. No. 1472.

P.P 13-24-5

Dear Sir,

With reference to your D.O.Letter No. G.1675-82/P.P dated 30-8-1924 calling for information re: the trial of European British subjects during the last 10 years in this District, I am to state that no such trials of European British Subjects have taken place in this District during the last 10 years.

Regarding cases in which the parties ~~injured~~ injured did not wish to proceed to prosecute them owing to various inconveniences, the District Superintendent of Police who was called upon to report in the matter has stated that there are no such cases so far as his office is aware of and that information ~~has~~ has also been called for from the taluks.

If any further information is received from the

District

Fn. 164

Office of the District Magistrate,
Hassan District,
Dated Hassan, the 26th September 1924.

D.O. C 71-24
Enc: 1 Statement.

P. P 13-24-6

P.P

Dear Sir,

In reply to your D.O. No. G. 1075-33/P.P. dated the 30th ultimo in the matter of furnishing statistics showing the number of trials of European British subjects, I enclose herein for the information of Government a statement showing trials of European British subjects during the past 10 years in the District.

As regards the information required in para 2 of your D.O. it is reported that there were no cases of the kind referred to therein.

Yours sincerely,

To

M. Venkatesa Iyengar, Esq., M.A.,
Assistant Secretary,
Salore.

HASSAN DISTRICT.

Statement showing the number of trials of European British subjects during the past ten years.

District heinous number.	Year.	Section of Indian Penal Code.	Complainant.	Accused.	Remarks.
D.H.C. 21/412.	1920-21.	279/337 I.P.Code.	Govt. (per) Rame Gowda.	Col.Beville.	The facts of the case were that on 4-4-21 the ac who was driving his motor car at great speed cause injuries to complainant who was knocked down on th road near Byrapur (Alur Sub Taluk limits) on the Hassan Saklespur Road. The Police Inspector Manja put up a charge sheet against the accused before M Bowring I.P. District Magistrate, Mysore, and that accused was acquitted.
D.H.C.8/82.	1923-24.	324/326/I.P.C.	Mr.C.P.Oakley.	Mr.W.W.Noir.	The facts of the case were that on 27-8-23 the accused who was on ex-employee in the Manganese W under the management of the complainant, hit Mr.Oa on the head with a hammer in the T.B. at Arsikere the latter bore ill-will against Mr.Oakley who had recently dispensed with the services of the accus The Police Inspector of Arsikere put up a charge a against the accused and the case was committed to Madras High Court by Justice R.F.Plumer Bar-at-La J.P. In the Madras High Court, the accused was bo over a year, with surety of Rs1000/- under Section 562 Cr.P.C. on 5-3-1924.

26/9/24

District Magistrate,
Hassan District.

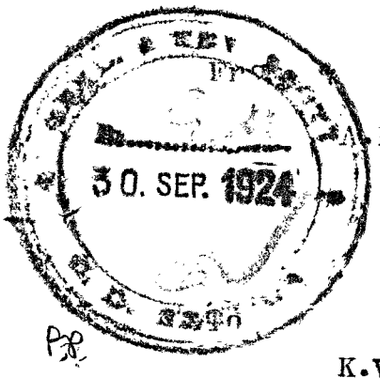
12509

Gm 1644

D.2:Dis:147/Rev:24-25

Office of the Deputy Commissioner,
Shimoga District.
Dated Shimoga 27th September 1924.
28

P.P 13-24-4



A.K.Syed Taj Pooran Esq., B.A.,
Deputy Commissioner, Shimoga District.

K.V.Anantaraman Esq., B.A.,
Secretary to Government, Revenue Department, Bangalore.

Sir,

With reference to your D.O.No.G.1675-8-2 PP:dated 30th August 1924, regarding the number of trials of European British Subjects - during the last ten years, in the District, I have the honour to state that it is seen from the Registers of this office as also from the information received from the office of the District Superintendent of Police, Shimoga, that in this District, there have been no such cases as are referred to in the D.O.under reply.

2. As regards para 2 the information got from the office of the District Superintendent (of police, of Shimoga, Taluk) shows that the police of Shimoga Taluk had charged one Mr.Hyden, an American at - Bhadravati, for an offence under section 325 Indian Penal Code, during the year 1923-24, but he was not tried, the complainant having - compounded the offence with the permission of the Magistrate.

I have the honour to be,
S i r,
Your most obedient servant,

For District Magistrate,
Shimoga District.

Office of the District Magistrate,
Bangalore District.

Dated Bangalore, 29/30th September 1924.

P.P 13-24-S

Dear Mr. Venkatesa Iyengar,

In reply to your D.O.letter No.Q.1675-82 dated 30-8-1924 requesting that statistics shewing the number of trials of European British subjects during the last 10 years may be furnished, I enclose herein three statements marked A, B. and C. and write to state as follows:--

2. Statement A.- This shows the particularseof cases tried by Mr. P.F.Bowring, Justice of the Peace while he was in charge of this District.

3. Statement B.- This is the one received from the Assistant Superintendent of Police, Bangalore City and also from the City Magistrate. It shows the names of 12 persons of whom the first is a European, the second and the third are European British subjects. It is reported that no information is available as regards the nationality of the rest. A copy of his letter is herein enclosed. The City Magistrate also reports that no further information is available in his office Registers.

4. Statement C.- This is the one received from the District Superintendent of Police, Bangalore District. It contains the names of 12 persons against whom complaints were lodged. A copy of his letter No.D2.Dis.224 dated 17-9-1924 is also enclosed. It will be seen from the statement that 23 persons were involved of whom one Mr. J. Scott is the same person referred to by that name in the statement A supra. By reading the names, it can be easily understood.that all the remaining 22 persons are not European British subjects.

5. Besides the names given in the above 3 statements there was another case in which one Muni Venkatappa a fuel contractor of Bettahalli in the Bangalore Taluk lodged a complaint against one Mr. George Cook for offences falling under Sections 352 and 504 I.P.C.

before the Special II Grade Magistrate, Bangalore. As he was reported to be a European British subject the records (in C.C. No.217 of 22-23 on the file of the Special II Grade Magistrate) were sent to Mr. P. F. Bowring (Inspector General of Police). The records were returned by him stating that a Justice of the Peace may take cognizance of the case on the receipt of a complaint direct. The Special II Grade Magistrate, Bangalore, was requested to inform the complainant accordingly. Further action taken by the complainant is not known.

Yours sincerely,

B Sankara Rao

To

M. Venkatesa Iyengar, Esq., M.A.,
Assistant Secretary to Government,
General and Revenue Secretariat, Bangalore.

Letter No.D2.Dis.145/24-25 dated 9th September 1924 from the Assistant Superintendent of Police, Bangalore City, to the District Magistrate, Bangalore District.

With reference to your No.J.C.158 of 1st instant forwarding a copy of D.O.letter No.Q.1675-82 dated 30-8-1924 from the Secretary, General and Revenue Secretariat, and calling for the information asked for in the said letter, I have the honour to state that in respect of para 2 of the said letter the crime registers of ten years of this office were looked into with the result that the particulars given in the attached statement were taken. The person concerned in item I is an Eurasian, while those concerned in items II and III are European British subjects. Nothing is available in this office crime registers to show the nationality of the remaining persons who may be European British subjects or Anglo Indians or Native Christians. As it could not be definitely stated to which nationality the others belong, I have also included their names in the list and request that the Court records may kindly be ordered to be looked into in respect of them. No information is available about them even in the stations since the Crime Registers beyond two years have been destroyed as per rules.

As regards para 2 of the said letter, I beg to add that no cases of the kind mentioned therein are tracedin the records of this office or of the stations.

Copy

B Subba Rao

District Magistrate, Bangalore Dist.

No.D2.Dis.224/24-25 dated 17th September 1924 from the District ~~Superintendent~~ Superintendent of Police, Bangalore District, to the District Magistrate, Bangalore City.

With reference to your No.J.C.156 dated 1-9-1924 calling for the information re the trials of European British subjects for the last 10 years, I have the honour to submit herewith a statement of cases against European British subjects investigated by the Police during the ten years referred to. The statement includes cases actually tried as well as those which did not come up for trial for reasons noted in the column of "Remarks" The statement however may kindly be verified with the different case files if available in the District Office records.

2. In the statistics received from the Taluks no specific cases which have failed on account of the non-appearance of witnesses as stated in para 1, or of cases in which the injured parties did not wish to proceed to prosecute as stated in para 2 of the Government letter have been mentioned.

Copy

B Sambasiva Rao

District Magistrate, Bangalore Dist.

Statement showing the trials of European British Subjects during the last ten years by the District Magistrate Bangalore District and the Justice of the Peace.

Serial No:	Year	Justice of the Peace case No:	Place of Offence	Date of Offence	Date of Institution	Section of I.P.C.	Complainant	Accused	Remarks.
	2	3	4	5	6	7	8	9	10
	1916-1917	1/16-17	Bangalore Taluk	21.5.17.	15.6.17 / 7.7.17.	304. I.P.C.	Government (D.S.P. Bangalore)	Mr. J. Scott	Committed to the High Court Sessions Madras.
	1917-1918	1/17-18	Ambina Modige Estate, Mudigeri Taluk	26-11-16.	28.7.17.	448, 143, 149 & 357. I.P.C.	Government Mudigeri Police Narayana Rao	Mr. D. Hunt.	The accused discharged under Section 253. of C.P.C.
3	Do.	2/17-18	Organam.	1/4 4.17	22-8-17.	304 of I.P.C.	Government.	Mr. S Perry	Accused fined Rupees 50/- Under Section 304 of I.P.C.
4	Do.	3/17-18	Kumbarahalli Hassan District.	25.7.17	21-12-17.	358. I.P.C.	Government	Mr. J. Orlebar	Acquitted under Section 258 C.P.C.

Bangalore.
Dated 2nd day of October 1918.

Reddiwalas
for
Dist Dist Magistrate
& Bangalore District
Bangalore.

Crime No	Section	Date of Offence	Name of Accused	Result of Trial	Remarks
I 238 22.23	302 & 34 IPC	6.2.23	Jacob & Elias	Both charged	Prior to taking evidence.
II 281/23	420	18.3.23	R. Bantan Bonnie	Convicted by S.P.	Acqd in Madras High Court
III 177/23	406	13.11.22	Charles Coeglan	Convicted	by S.P.
IV 173/1922	304A	3.11.20	Frances	Acquitted	As no offence was made out
V 146/16-4	381	30.9.15	Mariano & Leggie	Convicted	
VI 2270/14-15	381	17.3.15	Lawra Lawrence	— Do —	
VII 463/17-18	381	23.3.18	Augustine	— Do —	
VIII 25/15-16	258 & 324 IPC	—	Yohan	Acquitted	(not known)
IX 621/17-18	380	9.6.18	Francis	Convicted	
X 624/17-18	224	20.6.18	— Do —	— Do —	
XI 628/17-18	379	21.6.18	— Do —	Discharged	Reasons not known
XII 865/17-18	379	31.1.18	Elias	Convicted	

Assistant Sessions Judge
& Presidency Magistrate

Statement showing the Trials of European British Subjects in the Bangalore District for the last ten years.

C

Serial no.	Taluk Crime no.	Range Crime no.	Year	Taluk	Date of offence	Date of Report	Sections of I.P.C.	Complainant	Accused.	Remarks.
1.	86	22	1913-1914	Yelahanka Range Bangalore Tq.	2-4-1914	9-4-1914	325 I.P.C.	Mr. Atmon	Mr A. Burtis	2 months' S.I under Sec 325 I.P.C. by the Tq Magistrate, Bangalore Taluk and a fine of Rs 100/- in default 1½ months ~~Sentence~~ C.C. No 133 of 13-14. Dated 13-6-1914.
2.	112	45	— Do —	Kasaba Range Bangalore Taluk	21-6-1914	25-6-1914	379 I.P.C	Eranna	1. Driver Austin No. 61505 2. gunner Pobjoy 3. Driver Skinner No. 47511 4 gunner Beard R.H.A. Battery	Taluk Magistrate of Bangalore after enquiry handed them over to the military authorities who tried and convicted the accused on 7-9-14
3.	15	6	1914-15	Yelahanka Range Bangalore Taluk	21-7-1914	23-7-1914	379 I.P.C.	Mr. Edward	Mr. Harris	The Taluk Magistrate tried and discharged the accused under Section 253 Cr. P.C. in C.C. No 35 of 1914-15 on 15-10-1914.
4.	110	41	1914-15	— Do —	29-5-1915	30-5-1915	379 I.P.C.	K. Subramanya	1. Mr. Selinge 2. " Aulan 3. " Jeenard	J.P. tried the case and acquitted the accused.
5	57	23	1915-16	Kasaba Range Bangalore Taluk	25-1-1916	29-1-1916	380, 352, 453, 448 I.P.C.	Mr. Kraal - Dublin	1. J. Ingal. 2. Yathiraju	A "B" Sheet was submitted in this case and struck off on 15-3-1916 in this no 259 of 15-16.
6.	73	28	1915-16.	— Do —	31-3-1916	1-4-1916	451 I.P.C.	Mr. Feirman	Mr. Wilson	The Justice of the Peace tried the case and discharged the accused in C.C. no 1 of 15-16. Dated 20-5-191
7.	50	16	1916-17	Yelahanka Range Bangalore Taluk	Not known	5-2-1917	379 I.P.C.	Mr. J. Painting	Corporal Jackson, combined Depot	The Taluk Magistrate Struck off the case on C form on 7-4-1918 in his no 10 of 18-19.
8.	87	35	— Do —	Jaraganahalli Range	21-5-1917	21-5-1917	304 I.P.C.	Government	Mr. J. Scott	The case was tried in Madras High Court and

	5	50	1917-18	Yelahanka Range Bangalore Taluk	1-3-1918	8-3-1918	379 I.P.C.	Lt. Hamb Hughes	Mr. George	The Special II nd grade Magistrate Struck off the case on "C" form on 19-8-1919 in mis No. 24 of 1920.
10	94	46	1918-19	—Do—	20-1-1919	22-1-1919	379 I.P.C	Mr. Yegna Narayana Iyer	4 Soldiers names not known.	The Special II grade Magistrate Struck off the case on file in mis No. 25 of 1919-20 on 'C' form
11.	42	23	-Do-	Kadabu Range Bangalore Taluk	25-9-1918	26-9-1918	393 I.P.C	Noormahamed	3 Soldiers (names not known)	'C' Report was submitted to the Special II grade Magistrate on 23-12-22. The Magistrate Struck off the case on file
	—	—	1919-20		Nil					
—	—	—	1920-21		Nil					
12	141	55	1921-22	Kadabu Range Bangalore Taluk	14-6-1922	14-6-1922	429 I.P.C.	Mr. Mechiquid	Mr. W. Green	The case was tried by Mr. R.B. Plumer Bar-at-law and justice of the peace. The accused was Sentenced to pay a fine of Rs 50/- in default to suffer one months S.I.

23

Bangalore
19th Sept 1924

Dist. Superintendent of Police
Bangalore District.

20504

D. M. 2. ಡಿ2 ಡಿ ನಂ: 122/24-25
No. ~~J. C.~~ ~~91/24-25~~.
ENCS. One one

Gen 2025/22

OFFICE OF THE DISTRICT MAGISTRATE,
KADUR DISTRICT.

Dated Chikmagalur, 29th Oct. 1924.

P.P 13-24-10

FROM B. Sreenivasiengar, Esquire, B.A., B.L.,
DISTRICT MAGISTRATE,
KADUR DISTRICT.

To B. Nagappa, Esquire, Bar-at-Law.,
SECRETARY TO THE GOVERNMENT OF
HIS HIGHNESS THE MAHARAJA OF MYSORE,
Local & Legislative... DEPARTMENT,
BANGALORE.

G.D.
31 OCT. 1924
DIST. MAGISTRATE

PP
31.10

SIR,

With reference to your D.O. No. G. 1675-82/P.P. of the 30th August 1924, I have the honor to submit herewith a statement showing the number of trials of European British subjects during the last 10 years in this District, and to state that it is reported that there are no cases in which the parties injured did not wish to prosecute owing to inconveniences etc.,

I have the honour to be,
Sir,
Your most obedient servant,

B Sreenivasiengar

District Magistrate,
Kadur District.

M.L.A.

Statement showing the number of trials of European British subjects during the last 10 years in the Dis

Serial no:	Taluk	Crime No:	Section	Date of Offence	Date of report	Complainant	Accused	Property		Date of final report	Result of the case	Rem
								Lost	recovered			
1	Tarikere	42/21-22	408 I.P.C.	31.1.1922	1.2.1922	Mr: Jalur Ricky.	Mr: S. G. Rose.	Misappropriation of Rs: 100/-	nil	8.2.1924. A	The accused was convicted and sentenced to two months rigorous imprisonment under Sec: 408. I.P.C. by the Justice of the Peace in C.C No 1/21-22 on 28.2.1922	Except this solitary case no [illegible]

Dated, Chikmagalur
28th October 1924

By District Magistrate,
Kadur Dis

No. .....

Office of the Deputy Commissioner,
Mysore District,

Dated Mysore, 24th October 1924.

P.P 13-24-9

Dear Sir,

I am forwarding herewith a statement showing the details as regards the trials of European British subjects in this District. There have been only two cases for the last 10 years as could be gathered from the registers.

No information could be ~~ascertained~~ obtained re instances in which the parties injured did not wish to proceed to prosecute owing to various inconveniences.

Yours sincerely,

M. Venkatesa Iyengar, Esquire, M.A.,
Under Secretary,
General and Revenue Secretariat,
Bangalore.

BNR

Statement showing the no. of trials of European British subjects in the Nilgiris district

Serial No.	Year	Complainant	Accused	Offences Complained of	Result of trial	Remarks
	1920-21	A. Subbaraya	1. Nugent 2. Maruthuswamy 3. Muthuswamy	Sns: 352, 504 and 426 I.P.C	Discharged under Sec: 253 Cr.P.Code on his absence the Complainant	
2	1920-21	Govt (Collector's Memo in Criminal: 1/420 of 20-21 of Kushalnagar Police Subdivision-Mangalore Dated).	Charles H. Bevill	Sec 279 & 337 I.P.C.	Acquitted under Sec: 245 Cr.P.C	

K. Ponnappa
District Magistrate
Nilgiris

To

The Secretary,

G5173-496.1.25 (1) K.G.F. Mining Board, Bangalore
for my file
(2) Planters' Association, Lakkavalli And

Sir, to

I am desired by the Government of H.H. the Maharaja to invite the attention of your Board / Association to the Report of the Association Committee appointed by the Government of India in 1921 to consider the racial distinctions in Criminal procedure applicable to Indians and non-Indians, and to the amendment of the Criminal law of British India that it led to by the enactment of the Criminal Law Amendment Act, XII of 1923. Until the passing of that Act, European British subjects accused of the commission of any offences were not triable by a magistrate of the 2nd or 3rd class, and were only triable by a magistrate of the 1st class if he was a Justice of the Peace and, save in the case of District and Presidency Magistrates, a European British subject. One of the principal changes introduced by Act XII of 1923 is that European British subjects in British India are now brought under the jurisdiction of magistrates of Indian nationality, the only restriction retained being that in the case of offences punishable otherwise than with fine not exceeding fifty rupees, the accused person if he is a European British subject and claims to be tried as such, shall be triable only by a Magistrate of the 1st class. In the Mysore State, as your Board / Association is aware, European British subjects are not

triable by the State Magistracy, and can only be tried by European Justices of the Peace appointed by His Excellency the Governor General. As the discrimination against magistrates of Indian nationality in respect of the trial of European British subjects has been practically done away with in British India, it appears to the Government of H.H. the Maharaja that there is no longer the justification or necessity for its continuance in Mysore; but before taking further steps in the matter they desire to obtain the opinion of the European community in the State on the subject.

2 In the consideration of this question I am to invite the attention of your Board/Association to the following points:-

(1) The criminal law and criminal procedure in the State are practically indentical with those in force in British India;

(2) the Magistracy in Mysore is drawn from the same educated class as in British India; and,

under the scheme of separation of judicial and executive functions which has been introduced almost throughout the State (the only exception bein g the Chitaldrug District) the Magistrates are mostly law graduates well-trained in the practice of law and they are all carefully elected men;

(3) there are at present only four Justices of the Peace in the State, of whom two, being police officers, are unable to act in a judicial capacity in cases dealt with by the police; another is an officer of the State Mines Department, with no special knowledge of law or legal procedure.

There is no Justice of the Peace throughout the planting districts. No trial of a European British subject can therefore take place in the State except

(3) By the removal of racial distinction between Br. India and Mysore, the Magistracy in Mysore, though of the same class as those in Br. India, are placed in an inferior position, by being debarred from trying European British subjects.

at Bangalore or on the Kolar Gold Field. Parties and witnesses have to travel long distances, and incur heavy expenditure, and as a result aggrieved persons have practically to go without redress by recourse to the Courts when the accused person is a European British subject.

Trial by a Judiciary of their own nationality is no doubt a privilege which the European community value, but His Highness' Government believe that the community will not desire to hold on in Mysore to a privilege based on racial distinctionwhich their compatriots in British India have ~~ceased~~ ceased to enjoy, and the abolition of which is likely to be conducive to the promotion of solidarity, good feeling and harmony between themselves and Indians. The fact that His Highness has recently conferred on the Europeans resident in the State the privilege of membership in the Constitutional Assemblies of the State is also relevant to the issue.

I am to request you to favour the Government as early as convenient with the views of your Board / Association on the subject.

I have, etc.,

Chief Secretary to Govt.

H.H.'s pleasure will also be prepared to direct, if necessary, that summons in cases in which European British subjects are accused persons shall be issued from the Benches of Special Magistrates exercising appellate powers, & that warrant cases shall be tried by Commissioners, with the assessors, the Sessions being held at Bangalore & Kolar, Chikmagalur, Bangalore & Mysore.

G.G.O.11 19

P.P.

From

Md. Zahiruddin Mecci, Esq, B.A.,
District Magistrate,
TUMKUR.

PP 13-24-13

To

M. Venkatesa Iyengar, Esq., M.A.
Assistant Secretary to the
Govt. of Mysore.
BANGALORE.

Dated 24th February 1925.

Despatched 25-2-1925

Received

General No. D2 Dis. 173
No. 24-25

Enclosure No. (one)

Sir,

In continuation of my No. D2 Dis. 145 dated the 29th December 1924 and with reference to your D.O. No. G. 6366/P.P.13-24 dated the 14th inst. I have the honor to forward herewith, a statement showing the trial of a European British Subject by the

Gen. 3134

Office of the District Magistrate,
Tumkur District,
Dated, Tumkur, the 29th December '24.

P.P. 13-24-120

Dear sir,

In reply to your D.O. No. C.1675/P.P. 13-24-3 dated the 30th August 1924, calling for statistics showing the number of trials of European British subjects during the last 10 years in this District, I am to state that from reports -- received from the several Taluk & Sub Division Magistrates and from the District Superintendent of Police, it is seen that there has been only one such trial held by the Amildar Magistrate of Kunigal. particulars of this are given in the statement* appended. In April last, there was one more complaint filed by one Manikyan against Mr. Rushworth in the Amildar Magistrate's Court, Tiptur, This was forwarded to the Chief Court for its being referred to the Justice of the peace for trial. But the Chief Court returned it, -- inviting the attention of this Court to Notification No. 124-34, dated the 9th February 1904. The petition has since been returned to the complainant for being presented in person to the Justice of the Peace.

yours sincerely,

M. Venkatesa Iyenrar, Esquire., M.A.,
Assistant Secretary to Government,
General & Revenue Secretariat,
Bangalore.

* This will be sent separately.

Statement showing the trials of European British subjects in the court of Amildar and 2nd class Magistrate Kunigal for the year 1923-24.

Case no.	Nature of offence	Section	Name of the complainant	Name of the accused	Father's name	Age	Caste	Residence	Date of institution	How brought to trial	Final order with date	Remarks
18 / 23-24	For having driven motor bus from Bangalore to Kunigal without licence	6 Motor Vehicle Regulation	Government	Mr L. Loudon	G. W. Loudon	33 years	Irish Roman Catholic	No 1 South Parade Bangalore Cantonment	20/10/23	Summons.	The accused was sentenced to pay a fine of Rs 5/-. 28/11/23	—

"Copy"

Sd/ R - Ramiah Na[illegible]
II class. magistrate
Kunigal

To District magistrate

Gen 6172

87223

Telegraphic Address:—
"MINBOARD," OORGAUM.

THE KOLAR GOLD FIELD MINING BOARD,
OORGAUM,
MYSORE STATE,
S. INDIA.

March. 6. 1925.

Ref. No. 116.

P.P. 13-24-11

THE OFFG. CHIEF SECRETARY
TO THE GOVERNMENT OF MYSORE,
GENERAL & REVENUE SECRETARIAT,
BANGALORE.

Gen 7. MAR. 1925

P.P.

Sir,

I have the honour to acknowledge receipt of your letter No. G.6751-2/P.P.13-24 dated 4th instant inviting attention to your letter No. G.5173-4/P.P.13-24-11 dated 6th January regarding the proposed amendment to the Criminal Law and procedure in Mysore State and to inform you that in accordance with my letter dated 9th January this subject has been referred to the Directors of the Kolar Companies in London for their comment.

It is expected that a reply will be received from London within the course of the next two weeks and I will then communicate with you again.

I have the honour to be,
Sir,
Your most obedient servant,

W.K. Brooker
Secretary.

Sent for perusal. The promised reply maybe awaited.
9.3.25.
Await
TSS
9.3

M.K.

MYSORE PLANTERS' ASSOCIATION.

(33

BALLUPETE P.O.,
HASSAN DISTRICT.

7th March 1925

G.82.4201.
P.P.13-24-15

From. The Secretary,
The Mysore Planters' Association.

To. B. Ramaswamaiya, Esq., B.A., B.L.,
Offg. Chief Secretary to the Govt of His
Highness the Maharaja of Mysore.

9-3-25

Sir,

In reply to your No.G.6751-2/ P.P.13-24. inviting attention to your office letter No.G.5173-4/P.P.13-24-11 of 6th January 1924, I beg to inform you that this letter will be put before this Association at the Annual General Meeting of this Association which will be held on 6th April. The decision arrived at on that date will be communicated to you as early as possible.

I have the honour to be,

Sir,

Your most obedient servant,

M. A. de Wreck

Secretary.

Gw 4509

Telegraphic Address:—
"MINBOARD," OORGAUM.

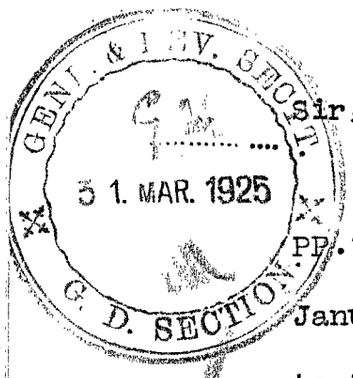
40098

THE KOLAR GOLD FIELD MINING BOARD,
OORGAUM,
MYSORE STATE.
S. INDIA.

March. 30. 1925.
Ref. No. 116.

P.P.13-24-16.

The Offg. Chief Secretary
to the Government of H. H. the Maharaja of Mysore,
BANGALORE.



Sir,

I have the honour to refer to your letters No.G.5173-4/PP.13-24-11 and G.6751-2/PP.13-24 dated respectively 6th January and 4th March on the subject of a proposed amendment to the Mysore Criminal Procedure Code. As previously intimated the Mining Board considered it desirable to refer the subject to London for an opinion, and I now beg to append copy of Messrs. John Taylor & Sons' letter :-

"We are in receipt of your letter of the 21st ultimo "enclosing copy of a letter addressed by the Government "of His Highness the Maharaja of Mysore to the Kolar Gold "Field Mining Board.

"We request that you will convey to the Government "our appreciation of their courtesy in referring, for an "expression of the Mining Board's views, proposals for "the jurisdiction of the Magistracy of Mysore over "Europeans.

"The question involved being an administrative "problem, we do not feel able to offer a useful opinion "upon it. We, nevertheless, are very sensible of the "kindly motives actuating the Government of Mysore in "inviting the expression of our views on this occasion, "whilst we recognise to the full the consideration His "Highness' Government has always extended to our interests "in Mysore."

I am directed to state that the Board fully concur in the sentiments expressed therein, which in effect may be considered to be their reply.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary.

M.K.

PP 13-24-17

MYSORE PLANTERS' ASSOCIATION.

BALLUPETE P.O.,
HASSAN DISTRICT.

April 11th 1925.

From. The Secretary,

The Mysore Planters' Association.

To. K. Matthan, Esq., B.A.,

Chief Secretary to the Government of His Highness

the Maharaja of Mysore.

Sir,

With reference to correspondence, regarding the proposed amendment of the Criminal Law and Procedure in the Mysore State on the lines of the British Indian Law, ending with my letter dated 7th March.

As stated in my letter this matter was discussed at the Annual General Meeting of this Association held on 6th instant at Chikmagalur.

I am now instructed to reply that this Association, before committing itself to the conditions as stated in your confidential letter No.G5173-4/P.P/3-24-11 dated 6th January, wish to know that District Magistrates only would try cases of accused British European subjects, and what, in such cases, would be their power of appeal.

This Association also wishes to know if it is not possible that a Justice of the Peace should be appointed to the Planting Districts, as has been done in other Indian States.

I have the honour to be,
Sir,
Your most obedient servant,

M. A de Weck

Secretary.

CONFIDENTIAL.

To

The Registrar,
Chief Court.

S i r,

I am directed to state that as a result of the amendment of the Indian Criminal Procedure Code in respect of procedure to be followed in the trial of accused who are European British subjects Government have ~~had~~ under consider ation ~~for some time~~ the question of addressing the Residency to obtain the sanction of the Government of India for amending procedure in regard to such trials in the State also. ~~As the Chief Court are aware certain difficulties have arisen in the past in cases involving~~ European British subjects ~~as~~ ~~accused, for example, last year in a case in which one Mr. King was prosecuted for an offence.~~ Before addressing the Residency Government will be glad to be favoured with the opinion of the Chief ~~Judge and the other Judges of the Chief Court~~ as to ~~all aspects of the~~ difficulties ~~so far~~ felt ~~and~~ likely to be felt ~~in the future if the existing procedure should continue.~~ Government will be glad if

machinery & procedure for the trial of the European British subjects. any change is required in the regn. stated & to be stated in what manner -

mac

if specific cases can be mentioned as illustrating the various difficulties. The legal position of Justices of the Peace with reference to the various orders of the Governor General appointing them and investing them with powers and jurisdiction also requires elucidation. I am to request that this matter may also be kindly dealt with in stating the opinion of the Judges. As the matter is of some urgency I am to request the favour of an early reply.

I have etc.,

Whether in view of the machinery for the trial of these cases in Br. India any change is required in the state on the same lines may also be stated

Chief Secretary to Govt.

To

The Registrar,

Chief Court.

Sir,

G 8867
31.5.26

I am directed to state that, in consequence of the changes introduced in British India under the Criminal Law Amendment Act (XII of 23) for the trial of European British subjects, the question of the revision of the procedure now in force in the State in this respect has for some time been under the consideration of Govt. As it is understood that, as a result of the changes introduced in British India in recent years, some difficulties have been felt and doubts have risen in the trials of British European subjects by Justices of the Peace in the State under the rules now in force, before addressing the Residency in the matter, Govt. desire to be favoured with the opinion of the Chief Court as to what are the legal and other difficulties which have so far been felt ~~and~~ or which are likely to be felt in the trial of European British subjects under the Criminal Procedure Code as now in force in the State and whether in view of the changes made in the British ~~Im~~ Indian Criminal Procedure Code in th respect any change in the existing rules of procedure is necessary and if so, in what directions.

28/4/26

I have &c.,

Secretary to Government,
L. & L. Departments.

Telgm:
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore....5th July.....1926

R. O. C. No. 402-26-27
Dis.

P.P.13-24-19

A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

P. G. D'SOUZA, Esq., B.A., B.L.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
BANGALORE.

Sir,

I am directed to acknowledge the receipt of your letter No.G.8867/P.P.13-25-18 dated the 1st May 1926, requesting to be furnished with the opinion of the Chief Court in regard to the revision of the procedure now in force in the State, for the trial of European British subjects.

In reply, I am to state that under Article 16 of the Mysore Treaty, 1913, which reproduces para 17 of the Instrument of Transfer, 1881, plenary criminal jurisdiction over European British subjects continues to be vested in the Governor General In Council, and His Highness the Maharaja of Mysore can exercise only such jurisdiction in respect of those subjects as may from time to time be delegated to him by the Governor General In Council. Under Section 4 of the Indian Foreign Jurisdiction and Extradition Act XXI of 1879, the Governor General In Council exercised any power or jurisdiction which he had for the time being within any country or place beyond the limits of British India, or might have dele-

gated the same to any servant of the British Indian Government. Under Section 6, he had delegated to Justices of the Peace appointed by him in Mysore certain of those powers, That is to say, in proceedings against European British subjects, the Justices of the Peace should have within the areas over which they are appointed, all the powers conferred by the Criminal Procedure Code of 1882 on Magistrates of the First Class who are Justices of the Peace and European British subjects. As regards cases against European British subjects which were triable exclusively by a Court of Sessions, the Governor General In Council had directed that Justices of the Peace within the State of Mysore shall commit European British subjects for trial to the High Court at Madras. (Vide Government of India, Foreign Department, Judicial No.159 I.J. dated 21-7-1881).

The Indian Foreign Jurisdiction and Extradition Act of 1879 has been superseded by an Order under the Foreign Jurisdiction Act 1890 of the British Parliament and in 1902 an Order cited as the Indian (foreign jurisdiction) Order In Council 1902 replaced the previous Act of the Indian Legislature. All appointments, rules and orders and other things made or done under any previous Indian Act regulating the exercise of foreign jurisdiction, were expressly confirmed and declared to have effect as if made or done under the Order of 1902.

When the Criminal Procedure Code was introduced into Mysore as Regulation I of 1886, it was declared in Section 1 of that Regulation that all provisions in the Code of Criminal Procedure Act X of 1882, relating to the appointments, suspension, removal and the powers of the Justice of the Peace, shall be omitted, and that nothing therein contained shall be deemed to confer any jurisdiction in proceedings against European British subjects. The same prohibition was repeated in the

Criminal Procedure Code, Regulation II of 1904. Under the Notification of the Government of Mysore (No.124-34- Legis. 12-03 dated 9th February 1904) issued with the concurrence of the Governor General In Council, the expression "Jurisdiction" in the last sentence of Section 1, clause 2 of the Criminal Procedure Code, Regulation II of 1904, has been held to mean jurisdiction to enquire into or try a charge, and consequently police officers and Magistrates in Mysore may exercise with respect to European British subjects, the same powers as may be exercised in their cases by police officers and Magistrates who are not Justices of the Peace, respectively, in places in British India beyond the limits of Presidency towns. Sections 443--459, found in the British Indian Criminal Procedure Code, Act V of 1898, have been omitted in the Mysore Criminal Procedure Code, Regulation of 1904.

So long as the plenary jurisdiction over European British subjects continues to vest in the Governor General in Council and cannot be exercised by Mysore Tribunals, it is apparent that the Mysore State has now power to revise the procedure relating to the trial of European British subjects in Mysore, by introducing necessary amendments in the Mysore Criminal Procedure Code or otherwise. Nor is it possible to suggest in what respects the Mysore Criminal Procedure Code can be modified, without first ascertaining what powers the Governor General In Council will be prepared to delegate to His Highness the Maharaja.

As the Mysore Criminal Procedure Code does not lay down any directions as regards the trial of cases against European British subjects by Justices of the Peace in Mysore, it follows that the procedure to be observed in their trial is to be regulated by the provisions of the Criminal Procedure Code in force

in British India. The amendments introduced in British India in 1923 by the Criminal Law Amendment Acts in the trial of European British subjects were designed to secure in some measure equality before the Law, irrespective of race and colour, and to some extent curtailed the special privileges accorded to European British subjects under the old Criminal Procedure, in the trial of offences against them. So long as the ordinary Tribunals of Mysore are not vested with any jurisdiction whatsoever for the trial of European British subjects, the considerations applying in British India will not apply in Mysore, and it will not be expedient, nor will it result in any practical advantages if the provisions of Sections 443--449 and 528A, B, C and D of the new Criminal Procedure Code of 1923 are introduced into Mysore. It will not be easy to introduce the system of trial by a Bench of two Magistrates, etc., provided in the British Indian Criminal Procedure Code of 1923 into Mysore, and so long as the trial of European British subjects in Mysore is confined to Justices of the Peace appointed by the Governor General In Council, it would be easier to follow the procedure prescribed in the old Criminal Procedure Code of 1898.

As far as the Chief Court is aware, no special difficulties have been felt in the trial of European British subjects by Justices of the Peace under the old Criminal Procedure Code as was in force in British India prior to 1923. But difficulties appear to have been felt on account of a paucity of Justices of the Peace in the Mysore State at important centres and within reasonable distances of each other with a consequent necessity to drag the accused and witnesses over long distances for the trial of the case at the place where a Justice of the Peace is located. This difficulty, I am to observe, can be avoided only by increasing the number of Justices of the Peace in the State.

I am to add that if it is the intention of Government to address the Residency for the necessary rules being framed by the Government of India, for the trial of European British subjects by Justices of the Peace in Mysore, it would be better that rules are framed more in accordance with Sections 443--459 of the old British Indian Criminal Procedure Code, Act V of 1898, rather than on the lines suggested by the Criminal Law Amendment Acts of 1923.

I have the honour to be,

S I R,

Your most obedient servant,

Thirumalacharlu 5/7/26

R E G I S T R A R.

TMN/2

C-47. E. one file

THE PALACE.
MYSORE.
September 23, 1926.

PP13-24-20

My dear Mirza,

I hope you will pardon my troubling you with a reference on the subject of your letter with regard to thetrial of European British subjects, not on racial grounds at all, but solely with a view to a practical solution.

Briefly I would ask whether the most effective letter to the Residency at this stage would not be a very short letter asking for information as to what the law now is in Mysore.

I am afraid the letter already sent was written without a very clear idea of what the proposal involved. You have demolished most of its arguments in your note of the 9th August. The Secretary in his of the 11th September shows that, so long as the European British subject exercised his option, the main difficulty, which arises out of the paucity of European magistrates, would be just as great as before. I am not sure it would not be greater since, in a case in which racial considerations are concerned, either side can claim a bench.

I might add that the statistical statement proposed to be forwarded to the Residency does not appear to lend any support to the statement it is designed to establish.

The truth is that the compromise arrived at by the politicians in British India has led to a most complex set of provisions which are of doubtful efficacy there. As the Secretary has pointed out, they cannot be applied by Justices of the Peace in Mysore while, if you could secure an amendment of the treaty and the enactment of similar legislation, you would thereby commit yourself to the maintenance of a staff of European magistrates.

It is difficult to suggest the way out. So far as I can see, however, it would appear to lie in the direction of (1) getting the Viceroy to delegate power generally to Mysore magistrates to deal with cases in which no claim to trial by a bench is made (this would go far to remove the feeling, if it exists, that they are not on a par with their compeers in British India), and (2) arranging for the trial of cases in which such a claim is made by a Mysore magistrate nominated by the Government sitting with a European nominated by the Residency.

It would seem, however, to be inevitable that the Government of India already have the matter, which will affect ~~the~~ all States, in hand, and it is for this reason that I suggest limiting the present reference to a request for information with a view to discussion of the question at Delhi in November.

Incidentally I am not at all sure that, if for instance an ugly case in which a soldier was concerned did arise, you wouldn't find it much more satisfactory to ~~have~~ leave the British Government to deal with its own subject and servant, since, whoever tries the case, some party is likely to be dissatisfied and attack the Government as in the correspondence that is now going on in the papers in ~~violation~~ relation to cases in Bengal and Assam.

Yours sincerely,

G Goodwin

D.O No. Pol. 591 PP 13-24-27
& J 7/4/27

Dear Major Evans Gordon, Yours

I am directed to refer to correspondence ending with Mr. Cater's demi-official letter No.6333 dated 9th August 1924, addressed to Mr. K. Matthan on the subject of the trial of European British subjects in the State for offences committed by them.

As desired in that letter, I am to enclose a statement of cases, involving the trial of European British subjects for the period 1914-15 to 1923-24, and to say that details are not available as to the reasons for the failure of some of the cases. Enquiries made of local officers have only elicited the general explanation that in many cases on account of the inconvenience to complainants and witnesses, parties preferred not to proceed with most of these cases as the complaints concerned simple offences such as assault or hurt. In the majority of instances the trouble and expense involved in the trial of such cases have not infrequently deterred parties from pressing the prosecution.

I am to observe that while this inconvenience referred to viz., parties and witnesses having to go all the way to Bangalore or the Kolar Gold Fields, and in some cases to Madras for trial before the High Court, is undoubtedly real, and cannot but have some influence on the volume of complaints preferred, and the number and quality of the witnesses available for examination, this is not a fact that usually finds mention in the records of cases, apart from comments in judgments on the strength and credibility of evidence ---------

adduced. Also, the results of trials before the Madras High Court are not fully available, and hence are not included in the statement.

In regard to the enquiry made in Mr. Cater's letter, I am to say that His Highness' Government have no objection to the Hon'ble the Resident confidentially addressing the United Planters' Association or the K.G.F. Mining Board in the matter of the proposed change, should such a course appear to him necessary or desirable. In this connection, I am desired to explain that it was not the intention of His Highness' Government to suggest that the prospect of giving up a privileged position, especially in the matter of racial discrimination was likely prima-facie, to be unqualifiedly acceptable to any community. But they believe that, apart from considerations of sentiment, there are decided advantages, in such respects as the nearness of the venue of enquiry and trial, and the resulting economy of time, trouble and money, which are calculated to recommend the change, when made, to the particular community affected by it. As a matter of fact, it is believed, as the result of informal enquiries made on behalf of Government, that no very serious objection is likely to be raised to the principle of the measure; namely, the extension to the Mysore State of a reform which public opinion in India as a whole has long insisted upon, and which the Government of India, after careful investigation by a

representative committee of both Europeans and Indians, and after making all proper provision for safeguarding the reasonable interests and susceptibilities of European British subjects, have felt it incumbent to sanction for British India, a reform, it must be added, in which the community affected has itself acquiesced, ~~with~~ - - ~~characteristic good sense and loyalty~~ to the national sentiment.

While the racial aspect of the question is common to Mysore with the rest of India, His Highness' Government are glad to think that the relations between the European and Indian communities within the State have been, if anything, closer and more - cordial than elsewhere; and they are sincerely desirous that the continuance of the good understanding should not be impaired by the indefinite perpetuation of privileges and distinctions which are no longer found necessary or desirable in British India, and which after all relate primarily to that small handful of individual European British subjects who may happen to be accused of crime.

In any decision of the question as affecting the Indian States generally, the quality of the administrative machinery will no doubt be an important consideration; and in this respect His Highness' Government venture to submit that the case for Mysore stands on an exceptionally strong footing. They do not wish to labour the point in this

connection, but will content themselves with recalling the generous and unstinting testimoney borne by no less a personage than H.E. the Viceroy Lord Reading, on the occasion of his visit to Mysore in November 1923, to 'the sound traditions of administration prevailing in Mysore' as well as to the fact of H.H. the Maharaja having always made "efficiency in his Government' his "watch-word". Speaking particularly, His Highness' Government believe that the qualifications of the Magistracy in Mysore and the quality of criminal justice administered are not inferior to those obtaining in the provinces of British India outside of the Presidency towns; and it may be added that His Highness' Government are always prepared to consider and effect such improvements as may be necessary to ensure the general standard of efficiency being maintained at its proper level.

A. Two paragraphs omitted.

It may be mentioned also that Magistrates in Mysore, though not given the power of trial, have nevertheless for forty years (since the decision of H.E. the Governor-General in Council, communicated to the Durbar in the Resident's letter of 4th March 1886) been empowered to exercise with respect to European British subjects the same powers as are exercisable by Magistrates, who are not Justices of the Peace, in places in British India beyond the limits of the Presidency towns. Now that the powers of the latter have been enlarged as the result of the Racial

Racial Disabilities Removal Legislation of 1923, His Highness' Government ~~earnest-ly~~ hope that it may be found possible to enhance to a corresponding extent the powers delegated to Magistrates in Mysore.

In these circumstances I am to request that the Hon'ble the Resident may be moved to ~~kind~~ly place this proposal before the Government of India with his support and obtain their early and favourable - orders.

Yours sincerely,

(Chief Secretary to Govt.)

Statement showing the number of cases involving the trial of European British subjects.

Year	Convicted.		Acquitted.		Committed to Madras High Court.		Left pending at the end of the year		Total		Rem
	No. of cases.	No. of persons.	No. of cases.	No. of persons.	No. of cases.	No. of persons.	No. of cases.	No. of persons.	No. of cases.	No. of persons.	
~~1912-13~~	~~10~~	~~10~~	~~6~~	~~7~~					~~16~~	~~17~~	
~~1913-14~~	~~10~~	~~12~~	~~4~~	~~5~~	~~3~~	~~3~~	-	-	~~17~~	~~20~~	
1914-15	12	14	10	12	1	1	-	-	23	27	
1915-16	16	17	9	11	-	-	4	5	29	33	
1916-17	6	9	7	8	-	-	2	3	15	20	
1917-18	-	7	-	1	-	1	-	-	-	9	
1918-19	-	12	-	3	-	-	-	-	-	15	
1919-20	-	7	-	3	-	1	-	-	-	11	
1920-21	-	7	-	3	-	-	-	1	-	11	
1921-22	-	2	-	4	-	-	-	1	-	7	
1922-23	-	7	-	3	-	1 X	-	-	-	11	Char retu
1923-24	3	3	4	5	2	2	-	-	9	10	want dict

).K.M.

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 670 Enc.
230-1903

pol. 91

From

A. C. Lothian, Esquire, I.C.S.,

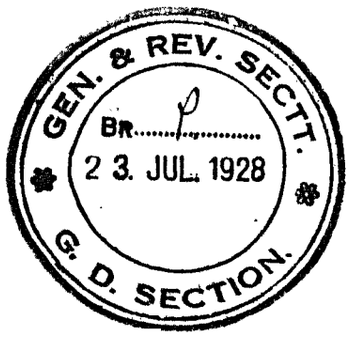
SECRETARY TO THE RESIDENT IN MYSORE.

PP 13-14-22

To

The Chief Secretary to the Government of

His Highness the Maharaja of Mysore.



Dated Bangalore, 23d July *1928* .

Subject.

TRIAL OF EUROPEAN BRITISH SUBJECTS IN THE MYSORE STATE.

Sir,

I am directed to state that for a full presentation of the case to the Government of India it is desirable to bring on to official record the demi-official correspondence subsequent to and resulting from your letter No. Pol.66, dated the 17th July, 1924, on the above subject. I am to enquire whether the Mysore Government have any objection to this being done. The favour of an early reply is requested.

Early

I have the honour to be,
Sir,
Your most obedient servant,

A C Lothian

SECRETARY TO THE RESIDENT.

RJ

Pol. 104 / 11

dated 26-7-1928.

To

The Secretary to the Hon'ble the
Resident in Mysore.

Subject:- Trial of European British subjects in the Mysore State.

Sir,

With reference to your letter No.6903/230-1903 dated the 23rd instant, I am directed to state that there is no objection to bring on to official record the demi official correspondence subsequent to and resulting from this office letter No. Pol.66 dated the 17th May 1924, on the above subject.

I have etc.,

CHIEF SECRETARY TO GOVT.

B.K.M.

CORRESPONDENCE AND NOTES RELATING TO THE TRIAL OF EUROPEAN BRITISH SUBJECTS

Mono WD 2818—GPB—50—21-8-28.

CORRESPONDENCE AND NOTES RELATING TO THE TRIAL OF EUROPEAN BRITISH SUBJECTS.

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3	Final Note by the First Member of Council (15th April 1924).				1
4	Chief Secretary	Secretary to the Resident.	Pol. 66 of 17th July 1924.	Requests the Resident may lend his support to the representation *re* the grant of jurisdiction over European British subjects either by a suitable modification of the Article in the Treaty or by delegation of necessary powers.	2
5	Secretary to the Resident.	Chief Secretary	D. O. 6333 of 9th August 1924.	Calls for certain statistics, *re* trials of European British subjects during the last ten years and enquires if there was any objection in consulting the United Planters' Association and the Kolar Gold Fields Mining Board about the changes proposed.	3
6	Chief Secretary.	The Secretary (1) Kolar Gold Fields Mining Board, Oorgaum and (2) Mysore Planters' Association, Saklespur.	G. 5173-4 of 6th January 1925.	Requests for an expression of the views of the Board on the subject of the trial of European British subjects by Mysore Magistrates in accordance with Government of India Act XII of 1923.	4
7	Secretary, Kolar Kolar Gold Fields Mining Board.	Chief Secretary to Government	No. 116 of 30th March 1925.	Forwards the opinion of the Home Board in the matter, the same being non-committal in character.	5
8	Secretary, Mysore Planters' Association.	Do ..	11th April 1925 ..	States that the Association wish to know if District Magistrates only would try cases of accused British European subjects and what would be their power of appeal in such cases and if a Justice of the Peace should not be appointed to the planting districts, as in other states.	5
9	First Member's Minute, dated 12th May 1925.				5
10	Office Note (Protection Branch) dated 22nd May 1925.				6
11	Local and Legislative Assistant Secretary's Note, dated 1st June 1925.				6
12	Under Secretary's Note, dated 18th February 1926.				7
13	Chief Secretary's Note, dated 19th February 1926.				8
14	Under Secretary's Note, dated 19th April 1926.				8
15	First Member's Minute, dated 24th April 1926.				9
16	Local and Legislative Secretary's Note, dated 26th April 1926.				9

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18	Registrar, Chief Court.	Chief Secretary	D1. Dis. 4, 26-27 of 5th July 1926.	Furnishes the opinion of the Chief Court in *re* to the revision of procedure.	9
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26	Dewan's Minute, dated 14th September 1926.				15
27	Submission Note, dated 17th September 1926, with orders dated 30th December 1926.				15
28	Private Secretary to His Highness.	Dewan ..	D. O. No. C. 47 of 23rd September 1926.	Furnishes his opinion on the draft letter to the Residency.	16
29	Chief Secretary	Secretary to the Resident.	D. O. No. Pol. 591 of 7th January 1927.	Furnishes the information called for in No. 5, above and requests that the proposal may kindly be placed before the Government of India.	17
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Trial of European British Subjects.

No. 1.—*Chief Secretary's Note, dated 2nd May* 1923.

Under the Mysore Treaty, plenary criminal jurisdiction over European British subjects is vested in the Governor-General in Council and H. H. the Maharaja can exercise over these persons only such jurisdiction as may be delegated to His Highness by the Governor-General.

The special privileges enjoyed by European British subjects in British India have been almost entirely extinguished. These related to competency of courts, forms of trial, nature and extent of punishments.

The Mysore European British subjects have under the Treaty the *Further* privilege of exemption from the jurisdiction of the State Courts. They have to be tried by European Justices of the Peace. The number of these being very small, it is a matter of the utmost difficulty for people in remote parts to obtain redress against them for criminal offences. It appears to me that the question of asking for a modification of the Treaty in this matter deserves serious consideration. If this is not conceded, we might ask for the delegation *under the Treaty* of more jurisdiction such as trial of European British subjects by District Magistrates and other First Class Magistrates, specially nominated by the Governor-General. If it is decided that some action should be taken, the case will be fully worked up.

K. MATTHAN,
2nd May, 1923.

No. 2.—*Minute by the First Member, dated 2nd July* 1923.

I agree with the Chief Secretary. A reference on the subject should be made to the Residency. There is no reason why our Magistrates should not try European British subjects when our judicial system is based on the model of the British Indian System and is as efficient as the one prevailing in British India.

MIR HUMZA HUSEIN,
2nd July, 1923.

No. 3.—*Final Note by the First Member of Council, 15th April* 1924.

SUBJECTS.—Draft letter to the Residency *re* the procedure relating to the trial of European British subjects residing in the State for offences committed therein.

Under the Mysore Treaty plenary criminal jurisdiction over European British subjects is vested in the Governor-General in Council and His Highness the Maharaja can exercise over these persons only such jurisdiction as may be delegated by the Governor-General. Further, European British subjects have the privilege of exemption from the jurisdiction of State Criminal Courts and they can be tried only by European Justices of the Peace. The number of Justices of the Peace in the State being small, it is a matter of the utmost difficulty for people in remote parts to obtain redress against European British subjects for offences committed by them.

In British India also European British subjects enjoyed, until recently, special privileges in regard to criminal trials, but the Racial Distinctions Act, XII of 1923, has done away with some of those privileges. Soon after the passing of this Act in

British India, the question of securing to our Criminal Courts, jurisdiction over European British subjects was taken up for consideration, and when the papers were submitted to me with the Chief Secretary's proposal to approach the Government of India for a modification of the Mysore Treaty, I recorded the following minute :—

"I agree with the Chief Secretary. A reference on the subject should be made to the Residency. There is no reason why our Magistrates should not try European British subjects, when our judicial system is based on the model of the British Indian System and is as efficient as the one prevailing in British India."

The Dewan having agreed with me, a draft letter to the Residency was got prepared accordingly and it was considered in Council in November last. It was further revised in accordance with the suggestions then given and it finally came up for consideration at the last meeting of the Council, when it was resolved that the draft may be generally approved.

The draft letter, which explains itself, may be graciously approved.

MIR HUMZA HUSEIN,
15th April, 1924.

No. 4.—*Letter No. Pol.* 66, *dated* 17*th July* 1924 *from Mr. K. Matthan, Chief Secretary to Government to Mr. A. L. N. Cater, Secretary to the Resident.*

I am directed to invite kind reference to Mr. Williamson's letter No. 412 of 72-21 * dated 2nd February 1923 and to address you on the question of the procedure relating to the trial of European British Subjects residing in the State for offences committed therein.

At present plenary criminal jurisdiction over European British Subjects resident in the State is vested in the Governor-General in Council under Article 16 of the Mysore Treaty and His Highness the Maharaja can exercise only such jurisdiction as may be delegated to him by the Governor-General in Council. The only delegation so far made is that relating to the exercise by Magistrates and Police Officers in Mysore of the powers entrusted to Magistrates and Police Officers in British India outside the Presidency towns, but the power to try European British subjects for offences committed in the State has not been given to the local Magistracy and the offences committed by them are to be tried by Justices of the Peace appointed by the Governor-General. There are now three Justices of the Peace in the State and as one of them is the Inspector-General of Police, who cannot try Police cases, the criminal judicial work concerning European British subjects as accused is practically done by the remaining two Justices of the Peace. This causes considerable hardship to Mysore subjects and often results in a miscarriage of justice. Witnesses from distant parts of the State have to come to Bangalore or the Kolar Gold Fields to give evidence, and in order to avoid the inconvenience and trouble of long journeys and frequent and prolonged absence from home, they are reluctant to come forward and give evidence in cases. This evil was till some years ago common to both Mysore and British India, but it has to a great extent, been minimised in British India by the passing of the Racial Distinctions Act under which Indian Magistrates can try under certain conditions, European British Subjects accused of offences committed in British India.

The Racial Distinctions Act has the effect of creating a distinction between the Mysore Magistracy and the British Indian Magistracy. as it confers upon the latter certain powers which are denied to the former. The distinction between an Indian subject and a European British subject is natural enough and is easily understood by the people, but the distinction now created between the Mysore and the British Indian Magistracy, both drawn from the same class of people, cannot be understood and the Government of H. H. the Maharaja are of opinion that there is no justification for it. The Magistrates in Mysore are carefully chosen and are quite efficient. They are mostly law graduates well trained in the practice of law and can well be

*Not printed.
Forwards 5 copies of the Report of the Racial Distinctions Committee.

relied upon for honesty and integrity of judgment. The Criminal Laws in Mysore, the Penal Code and Criminal Procedure Code—are similar to and to all intents and purposes identical with, those which are in force in British India, and the Magistracy which consists of a trained staff under the scheme of the Separation of the Executive from Judicial functions, can very well hold trials by Jury. If necessary, the Government of Mysore are prepared to order that the Summons Cases may be tried by District Magistrates or Special Magistrates exercising Appellate powers at District Head Quarters and warrant cases may be committed to the Court of Sessions. No difficulty will be experienced in the formation of Juries, as there are a sufficient number of European residents in all the Divisions, and if necessary the Sessions trials will be held in the Planting Districts of Kadur and Hassan or at Bangalore and Mysore. The Government of His Highness the Maharaja are sure that the change will not be unwelcome to the European residents in the State, as it ensures trial at District Head Quarters where sessions are also held and obviates the necessity of the complainant and witnesses going long distances to the Courts of the Justices of the Peace or to Madras when the accused are committed to the High Court. Besides, the relation between European British subjects and the Indian subjects of His Highness the Maharaja are of the most cordial kind and under the recent Constitutional Reforms in Mysore Europeans have been admitted into the two Political Institutions of the State, *viz.*, the Representative Assembly and the Legislative Council. The distinction as regards the mode of their trial will be a source of trouble in future and the Government of His Highness the Maharaja are anxious to avoid it as early as possible.

This is a fitting opportunity to introduce the desired changes in the Criminal Procedure Code. The Government of His Highness the Maharaja contemplate the amendment of their Criminal Procedure Code on the lines of the British Indian Code, and if racial distinction in the State is removed as in British India, they would reproduce the provisions of the British Indian Act in respect of the trial of European British subjects in their Criminal Procedure Code, with such modifications as may be suggested by the Government of India or as may be deemed necessary under the special conditions of Mysore.

At present the Special Magistrate, Kolar Gold Fields, exercises jurisdiction over Americans and Europeans other than British subjects and other Indian Magistrates can try them with the previous permission of the Hon'ble the Resident. No objection has been taken till now to the trial being conducted by an Indian Magistrate. What the Government of His Hishness the Maharaja ask for is an extension of this principle to the case of European British subjects.

Under these circumstances His Highness' Government venture to think that there can be no serious obstacle to the grant of jurisdiction over European British subjects. I am accordingly to request that the Hon'ble the Resident may lend his kind and powerful support to this representation and obtain the favourable orders of the Government of India in the matter either by a suitable modification of Article 16 of the Mysore Treaty or by the delegation of the necessary powers under that Article.

No. 5.—*D. O. No.* 6333, *dated the 9th August* 1924, *from Mr. A. L. N. Cater, Secretary to the Resident, to Mr. K. Matthan, Chief Secretary to Government.*

Please refer to your letter No. Pol. 66, dated the 17th July 1924. I am to observe that the question you raise is a large one whose decision by the Government of India will affect other States besides Mysore, since although there may not be specific mention of the fact in all treaties, the right to try Europeans and Americans has hitherto in practice everywhere been reserved by the Government of India. In submitting your request to the Government of India it will be advisable to make the case as complete as possible and it is observed that you state that the present system causes considerable hardship to Mysore subjects and often results in a miscarriage of justice. No facts have been given in support of these statements and I am to ask that you will be so kind, if there is no objection, as to furnish this office with statistics showing the number of trials of European British subjects during the last ten years in the Mysore State with details of those which have failed for want of prosecution on account of non-appearance of witnesses or other similar causes.

You also say that the Mysore Government are sure that the change will not be unwelcome to the European residents in the State and I am to enquire whether you will have any objection to the Resident addressing the Secretary to the United Planters' Association of South India and the Kolar Gold Fields Mining Board confidentially, on the subject to ascertain their views. These two communities, *viz.*, the Planters and the Residents of the Kolar Gold Fields, are obviously those which are principally affected by the proposed change and, if they state their acquiescence in it, the Mysore Government's case will be clearly strengthened.

No. 6.—*Letter No. G. 5173-4, dated 6th January 1925, from the Chief Secretary to the Government of Mysore, to* (1) *The Secretary, K. G. F. Mining Board, Oorgaum and* (2) *The Secretary, Mysore Planters' Association, Saklespur.*

I am desired by the Government of H. H. the Maharaja to invite the attention of your Board—Association, to the Report of the Committee appointed by the Government of India in 1921 to consider the racial distinctions in Criminal Procedure applicable to indians and non-Indians, and to the amendment of the Criminal Law of British India, that it led to, by the enactment of the Criminal Law Amendment Act, XII of 1923. Until the passing of this Act, European British subjects accused of the commission of any offences were not triable by a Magistrate of the 2nd or 3rd Class, and were only triable by a Magistrate of the First Class, if he was a Justice of the Peace and, save in the case of District and Presidency Magistrates, a European British subject. One of the principal changes introduced by Act XII of 1923 is that European British subjects in British India are now brought under the jurisdiction of Magistrates of Indian nationality, the only restriction retained being that in the case of offences punishable otherwise than with fine not exceeding fifty rupees, the accused person if he is a European British subject and claims to be tried as such, shall be triable only by a Magistrate of the 1st Class. In the Mysore State, as your Board-Association is aware, European British subjects are not triable by the State Magistracy, and can only be tried by European Justices of the Peace appointed by His Excellency the Governor-General. As the discrimination against Magistrates of Indian nationality in respect of the trial of European British subjects has been practically done away with in British India, it appears to the Government of H. H. the Maharaja that there is no longer the justification or necessity for its continuance in Mysore; but before taking further steps in the matter they desire to obtain the opinion of the European community in the State on the subject.

In the consideration of this question I am to invite the attention of your Board-Association to the following points:—

(1) The criminal law and criminal procedure in the State are practically identical with those in force in British India;

(2) the Magistracy in Mysore is drawn from the same educated class as in the British India and under the scheme of separation of judicial and executive functions which has been introduced almost throughout the State (the only exception being the Chitaldroog District) the Magistrates are mostly law graduates well-trained in the practice of law and they are all carefully selected men;

(3) there are at present only four Justices of the Peace in the State, of whom, two being police officers, are unable to act in a judicial capacity in cases dealt with by the police; another is an officer of the State Mines Department, with no special knowledge of law or legal procedure. There is no Justice of the Peace throughout the planting districts. No trial of a European British subject can take place in the State except at Bangalore or on the Kolar Gold Fields. Parties and witnesses have to travel long distances, and incur heavy expenditure, and as a result aggrieved persons have practically to go without redress by recourse to Courts when the accused person is a European British subject.

By the removal of racial distinctions in British India, and its continuance in Mysore, the Magistrates in Mysore, though of the same class as those in British India, are placed on an inferior footing, by being debarred from trying European British subjects.

Trial by a judiciary of their own nationality is no doubt a privilege which the European community value, but His Highness' Government believe that the community will not desire to hold on in Mysore to a privilege based on racial

distinction which their compatriots in British India have ceased to enjoy, and the abolition of which is likely to be conducive to the promotion of solidarity, good feeling and harmony between themselves and Indians. The fact that His Highness has recently conferred on the Europeans, resident in the State the privilege of membership in the constitutional assemblies of the State is also relevant to the issue. His Highness' Government will also be prepared to direct, if necessary, that summons cases in which European British subjects are accused persons, shall be tried only by the District Magistrates or Special Magistrates exercising appellate powers, and that warrant cases shall be triable only by Courts of Sessions, with the aid of jurors, the Sessions being held at Hassan, Chikmagalur, Bangalore and Mysore.

I am to request you to favour the Government as early as convenient with the views of your Board-Association on the subject.

No. 7.—*Letter No. 116, dated 30th March 1925, from the Secretary, K. G. F. Mining Board, Oorgaum, to the Officiating Chief Secretary.*

I have the honour to refer to your letters No. G. 5173-4—P.P. 13-24-11 and G. 6751-2—P. P. 13-24, dated respectively 6th January and 4th March on the subject of a proposed amendment to the Mysore Criminal Procedure Code. As previously intimated, the Mining Board considered it desirable to refer the subject to London for an opinion, and I now beg to append copy of Messrs. John Taylor and Sons' lette :—

"We are in receipt of your letter of the 21st ultimo enclosing copy of a letter addressed by the Government of His Highness the Maharaja of Mysore to the Kolar Gold Fields Mining Board.

We request you will convey to the Government our appreciation of their courtesy in referring, for an expression of the Mining Board's views, proposals for the jurisdiction of the Magistracy of Mysore over Europeans.

The question involved being an administrative problem, we do not feel able to offer a useful opinion upon it. We nevertheless, are very sensible of the kindly motives actuating the Government of Mysore in inviting expression of our views on this occasion, whilst we recognise to the full, the consideration His Highness' Government has always extended to our interests in Mysore."

I am directed to state that the Board fully concur in the sentiments expressed therein, which in effect may be considered to be their reply.

No. 8.—*Letter dated 11th April 1925, from the Secretary, the Mysore Planters' Association, Ballupete P. O., to the Chief Secretary to Government.*

With reference to correspondence, regarding the proposed amendment of the Criminal law and procedure in the Mysore State on the lines of the British Indian law, ending with my letter dated 7th March.

As stated in my letter, this matter was discussed at the Annual General Meeting of this Association held on 6th instant at Chikmagalur.

I am now instructed to reply that this Association before committing itself to the conditions as stated in your confidential letter No. G. 5173-4—P. P. 3-24-11, dated 6th January, wish to know that District Magistrates only would try cases of accused British European subjects, and what, in such cases, would be their power of appeal.

This Association also wishes to know if it is not possible that a Justice of the Peace should be appointed to the Planting Districts, as has been done in other Indian States.

No. 9.—*Minute by First Member, dated 12th May 1925.*

A reply has to be sent to the Planters' Association in respect of the points raised in their letter.

There are three points raised by them :—

(1) Whether District Magistrates alone can try European British subjects or all Magistrates?

(2) What will be the powers of punishment of such Magistrates ?

(3) Whether Justice of the Peace cannot be appointed to the planting districts ?

E.B.S.

As regards points (1) and (2), the Local and Legislative Secretary may be asked to note thereon with reference to the provisions of the Act in force in British India.

K. R. SRINIVASIENGAR,
12*th May*, 1925.

No. 10.—*Office Note, dated 22nd May* 1925.

Formerly in British India, European British subjects could be tried only by Sessions Judges, District Magistrates and Magistrates of the First Class who are Justices of the Peace and are themselves European British subjects. They could also claim the right to be tried by a mixed jury in all cases. (Section 443 and 444 Criminal Procedure Code).

After the amending Act XII of 1923 all First Class Magistrates, whatever their nationality, can try European British subjects and 2nd and 3rd Class Magistrates can try cases punishable with fine not exceeding Rs. 50. (Section 29 A).

As regards the power of punishment of the Magistrates, the Court of Session could pass only sentences of imprisonment to the extent of one year or fine or both. Higher punishment could be imposed only by High Courts. (Section 449).

District Magistrates could sentence only up to six months and fine up to Rs. 2,000 (446).

First Class Magistrates could impose sentences up to 3 months and fine up to Rs. 1,000 (446).

These restrictions are now removed by Act XII of 1923, except that no sentence of whipping can be passed against a European British subject. Sessions Judges can pass any sentence and District Magistrates and First Class Magistrates can pass sentences up to 2 years imprisonment and fine up to Rs. 1,000 (Section 34 A).

But where racial considerations are involved such as where the complainant and the accused are respectively European and Indian British subjects, the accused can claim in summons cases trial by a Bench of two Magistrates and in warrant cases committal to Sessions Courts. (443-445).

No. 11.—*Mr. C. Abdul Ghani's Note, dated 1st June* 1925.

The powers of punishment and trial which Magistrates (whether Indians or otherwise) in British India exercise over European British subjects, after the passing of the Criminal Law Amendment Act XII of 1923, are as follows :—

(1)	(2)	(3)
Second and Third Class Magistrates.	Can take cognisance of only such cases as are punishable with fine only up to Rs. 50.	Can fine up to Rs. 50.
First Class Magistrates and District Magistrates.	All cases except Sessions Cases ..	Can fine up to Rs. 1,000 and imprison up to 2 years.
Sessions Court	All cases	Sentence of death and transportation and all other sentences.

N.B.—No Court can pass a sentence of whipping.

The above is only when the European British subject does not claim to be tried under the special provisions under Chapter XXXIII—where racial considerations arise.

When he claims to be tried under that Chapter :—

(1) In summons cases	Only a Bench of two Magistrates, one being a European, can try him.
(2) In warrant cases	The Sessions Court.

He can claim the majority of jurors or assessors to be Europeans or Americans.

Our proposal is to invest the District Magistrates or Special First Class Magistrate with appellate powers, to try all cases against European British subjects, except Sessions cases. As regards powers of punishment, no mention is made; but they are presumably their ordinary powers, *viz.*, two years and Rs. 1,000 fine, which is what is exercised by similar Magistrates in British India.

No. 12.—*Under Secretary's Note, dated 18th February* 1926.

This file relates to the question of the revision of the procedure for the trial of European British subjects in Mysore. The procedure in British India in this respect has changed in recent years as a result of the Racial Distinction Committee's recommendations. On receipt of copies of the Committee's Report the question was taken up here and a communication was sent to the Residency in July 1924. We stated that the need for the trial of these cases by Justices of the Peace only was the cause of much inconvenience to people who wished to complain and to witnesses, that Indian Magistrates in British India were by the change of procedure made there placed in a position of seeming superiority over men of the same qualifications and position in the State and that Government was sure that the change if made here would not be unwelcome to British Residents in Mysore. The Secretary to the Resident wrote in reply asking for statistics to support the statement that the trial by Justices of the Peace was a cause of inconvenience, and with reference to the statement that British Residents in Mysore would not object to the change of procedure asked whether the Resident might consult some European associations in the matters. Information as regards trials by Justices of the Peace was thereupon called for from the districts. As regards the willingness of the European British subjects the then First Member, Mir Hamza Husein, first consulted the English Planters' Representative in the Representative Assembly informally. The representative was willing that the change might be made and requested permission to place the matter before his Association. We later wrote to the Planters' Association and to the Kolar Gold Field Mining Board and asked for their views in *re* to the change proposed. The Kolar Gold Field Mining Board expressed themselves as unable to give any opinion on an administrative problem like this. The Planters' Association before committing themselves to the proposal wished to know if District Magistrates only would try these cases and what in such cases would be their power to appeal. The matter was discussed in the Legislative Branch and a note put up of powers exercised by Magistrates in British India in this respect. The First Member thereupon ordered that the information required by the Association may be furnished to them. A suggestion has been made in our letter to the Residency that if necessary only District Magistrates and Special Magistrates with appellate powers would try summons cases and warrant cases by Courts of Sessions. This was stated in a letter to the Association also. This suggestion differs in material respects from the position in British India as noted by the Legislative Section. I submitted this file to the First Member some time after the date of his order in paragraph 132 and stated that the information as given by the Legislative Secretariat could not be furnished to the Planters' Association. The Member was pleased to order that it did not seem to him quite necessary to have written to the Association, that as details were not yet settled and the information asked for could not be given at this stage, it was not necessary to send a reply to the Association now and that the Residency may again be urged to move the subject with the Government of India. About this time in connection with the trial of one Mr. King in Bangalore District some points were raised for consideration in connection with the offices of Justices of the Peace in Mysore and how the procedure laid down in the British Indian Criminal Procedure Code should be adopted by them. The Member mentioned this and instructed me to discuss the question raised on that file and its bearing on this case with Mr. Ghani for discussing the whole case. When I waited on the Member in some other connection in November or December, the Member was pleased to say that Mr. Ghani and I in consultation might put up a draft and submit the file to him together. Mr. Ghani and I have not been able to sit together and put up a draft. The point raised in the case of Mr. King regarding the procedure to be

adopted by Justices of the Peace in trying these cases has not yet been settled. If the only procedure that can apply in the trial of such cases in the State by any Order in Council of the Governor-General is the procedure laid down in the amended British Criminal Procedure Code, certain questions as to constitution of Benches will, it is understood, arise and for these there is said to be at present no provision in the law so far as the State is concerned. In this view it would seem that the best course to follow on this file is to ascertain what the points are which arise on that file and to urge them as an argument in our favour and say that the only procedure that can be applied being the procedure of the new code it follows that Magistrates in Mysore should be invested with powers to try these cases in the same way as Magistrates in British India.

* * * * *

A draft is accordingly put up. The details of statistics asked for in the Residency letter of 24th July 1924 are not easily available. Besides the formal requisition to the Districts I had informal enquiry made if details of reasons for the failure of cases before Justices of the Peace could be got from the Chief Court. I understand that this is not possible and that all the available information is given in the Administration Reports of the Department. This is stated in the draft and a few cases which are referred to in the reports received from the districts are mentioned in it to illustrate the kind of difficulty felt by parties and witnesses in these cases.

No. 13.—*Chief Secretary's Note, dated 19th February* 1926.

* * * * *

The points are (1) we can take no action for revising the Criminal Procedure Code, unless the Government of India decide whether the existing procedure is to continue or the amended procedure introduced into British India is to be in force. Any amendments to be made have to be passed by the Legislative Council and they are likely to oppose strongly all racial distinctions. We have now two Justices of the Peace, one of whom is the Inspector-General of Police. What is the position of the Justices of the Peace in regard to the jurisdiction over European British subjects now that Justices of the Peace, judicial officers for trying Europeans, have ceased to exist under the British Indian laws if continued, in Mysore, raises many difficult and complicated questions.

Whether Europeans in Mysore are agreeable to the change is really beside the point. We should not have made any admissions on the subject. Europeans in India were not in favour of the changes introduced into British India as a body but having regard to the small number of cases they may not really object if the position is explained to them. As regards heinous offences to be tried in a Court of Sessions we can make suitable provision to ensure to them the privileges of being tried in a High Court. Unless we know to what extent the Government of India are prepared to cede jurisdiction to our Courts it is difficult to formulate further practical proposals.

A draft generally on the lines suggested should in my opinion satisfy the Residency to forward our previous representation to the Residency.

The matter may perhaps be discussed at the next meeting of Council.

P. G. D'Souza,
19th February 1926.

No. 14.—*Under Secretary's Note, dated 19th April* 1926.

I brought back this file from the Member to-day for reference for Internal Security Scheme File. The Member wanted on this file a draft to be put up asking

for the opinion of the Chief Court on the administrative side on the question of trials by Justices of the Peace and alteration of machinery, if any, necessary.

M. VENKATESIENGAR,
19th April, 1926.

No. 15.—*First Member's Minute, dated 24th April* 1926.

This may be submitted through the Local and Legislative Secretary, whose opinion I should like to have about making this reference to the Chief Court.

K. R. SRINIVASIENGAR,
24th April, 1926.

No. 16.—*Local and Legislative Secretary's Note, dated 26th April* 1926.

There is no harm in making this reference to Chief Court who are moved to state their view of the practical difficulties existing in the trial of European British subjects by a Justice of the Peace under the new Criminal Procedure Code in force in British India.

B. NAGAPPA,
26th April, 1926.

No. 17.—*Letter No. G.* 8867, *dated the 1st May* 1926, *from Mr. P. G. D'Souza, Chief Secretary, to the Registrar, Chief Court.*

I am directed to state that in consequence of the changes introduced in British India under the Criminal Law Amendment Act (XII of 23) for the trial of European British subjects, the question of the revision of the procedure now in force in the State in this respect has for some time been under the consideration of Government. As it is understood that, as a result of the changes introduced in British India in recent years, some difficulties have been felt and doubts have arisen in the trials of British European subjects by Justices of the Peace in the State under the rules now in force, before addressing the Residency in the matter, Government desire to be favoured with the opinion of the Chief Court as to what are the legal and other difficulties which have so far been felt or which are likely to be felt in the trial of European British subjects under the Criminal Procedure Code as now in force in the State and whether in view of the changes made in the British Indian Criminal Procedure Code in this respect, any change in the existing rules of procedure is necessary and if so, in what directions.

No. 18.—*Letter No. D.* 1. *Dis. No.* 4 *of* 1926-27, *dated the 5th July* 1926, *from Mr. A. Sreenivasaragavachari, Registrar, Chief Court, to the Chief Secretary to Government.*

I am directed to acknowledge the receipt of your letter No. G. 8867—P. P. 13-25-18, dated the 1st May 1926, requesting to be furnished with the opinion of the Chief Court in regard to the revision of the procedure now in force in the State, for the trial of European British subjects.

In reply, I am to state under Article 16 of the Mysore Treaty, 1913, which reproduces para 17 of the Instrument of Transfer, 1881, plenary criminal jurisdiction over European British subjects continues to be vested in the Governor-General in Council, and His Highness the Maharaja of Mysore can exercise only such jurisdiction in respect of these subjects as may from time to time be delegated to him by

the Governor-General in Council. Under Section 4 of the Indian Foreign Jurisdiction and Extradition Act XXI of 1879, the Governor-General in Council exercised any power or jurisdiction which he had for the time being within any country or place beyond the limits of British India, or might have delegated the same to any servant of the British Indian Government. Under Section 6, he had delegated to Justices of the Peace appointed by him in Mysore certain of those powers; that is to say, in proceedings against European British subjects, the Justices of the Peace should have within the areas over which they are appointed, all the powers conferred by the Criminal Procedure Code of 1882 on Magistrates of the First Class who are Justices of the Peace and European British subjects. As regards cases against European British subjects which were triable exclusively by a Court of Sessions, the Governor-General in Council had directed that Justices of the Peace within the State of Mysore shall commit European British subjects for trial to the High Court at Madras. (*Vide* Government of India, Foreign Department Judicial No. 159, I. J. 21-7-1881).

The Indian Foreign Jurisdiction and Extradition Act of 1879 has been superseded by an Order under the Foreign Jurisdiction Act of 1890 of the British Parliament and in 1902 an order cited as the Indian (Foreign Jurisdiction) Order in Council, 1902 replaced the previous Act of the Indian Legislature. All appointments, rules and orders and other things made or done under any previous Indian Act regulating the exercise of foreign jurisdiction, were expressly confirmed and declared to have effect as if made or done under the Order of 1902.

When the Criminal Procedure Code was introduced into Mysore as Regulation I of 1886, it was declared in Section I of that Regulation that all provisions on the Code of Criminal Procedure Act of 1882, relating to the appointments, suspension, removal and the powers of the Justice of the Peace, shall be omitted, and that nothing therein contained shall be deemed to confer any jurisdiction in proceedings against European British subjects. The same prohibition was repeated in the Criminial Procedure Code, Regulation II of 1904. Under the notification of the Government of Mysore (No. 124-34—Legis. 12-03, dated 9th February 1904) issued with the concurrence of the Governor-General in Council, the expression "Jurisdiction" in the last sentence of Section 1, Clause 2 of the Criminal Procedure Code, Regulation II of 1904, has been held to mean jurisdiction to enquire into or try a charge, and consequently Police Officers and Magistrates in Mysore may exercise with respect to European British subjects, the same powers as may be exercised in their cases by Police Officers and Magistrates who are not Justices of the Peace, respectively, in places in British India beyond the limits of Presidency towns. Sections 443-459, found in the British Indian Criminal Procedure Code, Act V of 1898, have been omitted in the Mysore Criminal Procedure Code Regulation of 1904.

As far as the Chief Court is aware, no special difficulties have been felt in the trial of European British subjects by Justices of the Peace under the old Criminal Procedure Code as was in force to British India prior to 1923. But difficulties appear to have been felt on account of a paucity of Justices of the Peace in the Mysore State at important centres and within reasonable distances of each other with a consequent necessity to drag the accused and witnesses over long distances for the trial of the case at the place where a Justice of the Peace is located. This difficulty, I am to observe, can be avoided only by increasing the number of Justices of the Peace in the State.

I am to add that if it is the intention of the Government to address the Residency for the necessary rules being framed by the Government of India, for the trial of European British subjects by Justices of the Peace in Mysore, it would be better that rules are framed more in accordance with Sections 443-459 of the old British Indian Criminal Procedure Code, Act V of 1928, rather than on the lines suggested by the Criminal Law Amendment Act of 1923.

No. 19.—*Under Secretary's note dated 22nd July* 1926.

This communication is in reply to the request we made in serial 18 that the opinion of the Chief Court might be furnished as to the legal and other difficulties felt in the trial of European British subjects under the procedure now in force in the

State and whether in view of the amendment of the procedure in British India any change of procedure is necessary in the State and in what directions. This information was required in order that we might address the Residency on the subject of modifying the present procedure. The Chief Court give a history of the procedure now in force and state that as far as they are aware no difficulties have been felt in the trial of European British subjects under the present procedure except on the score that there are not enough Justices of the Peace and that in consequence parties and witnesses have had to be taken from place to place. They state that the change of procedure that may be effected cannot be stated until it is known to what extent the Governor-General is prepared to delegate powers to His Highness the Maharaja. They suggest that if any change in procedure is to be made at all it may be in the direction of the Act of 1898.

This suggestion is not of any help in this case. The position here is as follows:—The British Indian Criminal Procedure Code was modified as a result of the Racial Distinctions Committee's report enabling Indian Magistrates in British India under certain conditions to try European British subjects. We requested the Residency to move the Government of India to agree to our Magistrates trying European British subjects in the same manner as the Indian Magistrates in British India. We put the request on the following grounds :—(1) the existing arrangement is inconvenient to parties and witnesses ; (2) it is desirable to place the Magistrates in Mysore on the same footing as Indian Magistrates in British India ; (3) the change is not likely to be unwelcome to the British subjects in the State. The Residency asked in reply for statistics to show the inconvenience caused by the present procedure and enquired whether the Resident might ascertain the opinion of the European British subjects in the State, which we had said, would not be against the change. To this letter we have not yet sent a reply.

For while we can give some statistics to show that inconvenience is caused by parties and witnesses having to go long distances, we are not able to say that the Resident may make the enquiry suggested of the European British subjects in the State. Two of their associations have been consulted and one of them has given a non-committal answer and the other wants some assurances before agreeing to the change. If the Resident makes any enquiry of them, leaving them complete option as regards the reply they are more likely to object than to agree to, the change.

So long as the plenary jurisdiction over European British subjects continues to vest in the Governor-General in Council and cannot be exercised by Mysore tribunals.

It is apparent that the Mysore state has no power to revise the procedure relating to the trial of European British subjects in Mysore, by introducing necessary amendments in the Mysore Criminal Procedure Code or otherwise. Nor is it possible to suggest in what respects the Mysore Criminal Procedure Code can be modified, without first ascertaining what powers the Governor-General in Council will be prepared to delegate to His Highness the Maharaja.

As the Mysore Criminal Procedure Code does not lay down any directions as regards the trial of cases against European British subjects by Justices of the Peace in Mysore, it follows that the procedure to be observed in their trial is to be regulated by the provisions of the Criminal Procedure Code in force in British India. The amendments introduced in British India in 1923 by the Criminal Law amendment acts in the trial of European British subjects were designed to secure in some measure equality before the law, irrespective of race and colour, and to some extent curtailed the special privileges accorded to European British subjects under the old Criminal Procedure, in the trial of offences against them. So long as the ordinary tribunals of Mysore are not vested with any jurisdiction whatsoever for the trial of European British subjects, the considerations applying in British India will not apply in Mysore, and it will not be expedient, nor will it result in any practical advantages if the provisions of Sections 443, 449 and 528 A. B. C. and D. of the new Criminal Procedure Code of 1923 are introduced into Mysore. It will not be easy to introduce the system of trial by a Bench of two Magistrates, etc., provided in the British Indian Criminal Procedure Code of 1923 into Mysore, and so long as the trial of European British subjects in Mysore is confined to Justices of the Peace appointed by the Governor-General in Council, it would be easier to follow the procedure prescribed in the old Criminal Procedure Code of 1898.

The fact is that we made a tactical mistake in saying to the Residency that the European British subjects in Mysore would not object to the change. The suggestion was unnecessary. A change was made in British India which showed that English men did not object to be tried by Indians in particular conditions. That by itself was sufficient justification for our asking that the change might be introduced here on the same conditions. Our request is one which should hold good even if the European British subjects in the State objected. But as the statement was made, the Residency made use of it to put off the request for change.

The best thing to do now would seem to be to give the Residency such statistics as we have to show that the present arrangement is causing inconvenience and as regards the other point say that we believe that the change would not be unwelcome to the European British subjects in the State, that they were not consulted but that consultation in such a matter would seem to be unnecessary, that the change would only result in producing conditions here to which their compeers in British India have submitted, and that a continuance of existing conditions would be anomalous. A draft to this effect will be put up, if approved, or the draft previously put up may be suitably modified for issue.

The suggestion of the Chief Court that if a change is made in the procedure it may be in the direction of the 1898 Act does not seem to require consideration here as it does not support the case which we have tried to make out with the Residency. What we want is Indian Magistrates in the State should be placed in the same position as Indian Magistrates in British India. This convenience and nothing less would meet the requirements. If the suggestion is however to be considered as an alternative, the Protection Branch may be consulted as to all the changes that will be necessary in the present law.

M. VENKATESA IYENGAR.

No. 20.—*Dewan's Minute dated 9th August* 1926.

The past handling of this somewhat difficult and delicate case does not appear to me to be altogether happy. The Chief Secretary's letter to the Residency dated 17th July 1924 contains some rather doubtful and awkward statements.

It may be a fact that two Justices of the Peace have to do the bulk of the criminal work pertaining to European British subjects; but to say categorically that this "causes considerable hardship to Mysore subjects and often results in a miscarriage of Justice," is to lay an exaggerated emphasis on a relatively minor inconvenience.

The admission made that "the distinction between an Indian subject and a European British subject is natural enough and is easily understood by the people" is calculated to give away an important aspect of our case, instead of strengthening it; while the remark about the supposed effect of the Racial Distinctions Act in "creating" for the first time "now" a distinction as between the Mysore Magistracy and that of British India, is incorrect as a statement of fact and not particularly impressive as an argument.

It was scarcely necessary or politic at that initial stage of the case to have expressed our readiness to make concessions, going beyond the position accepted as sufficient for British India, as regards the trial of cases; the better course would have been to wait and see what the Government of India would wish to suggest in the way of additional safeguards.

An even more serious error of judgment underlies the statement that "the Government of His Highness the Maharaja are *sure that the change will not be unwelcome* to the European residents in the State;" this, not unnaturally, has elicited the enquiry whether we shall have any objection to the Hon'ble the Resident addressing confidentially the United Planters' Association and the Kolar Gold Fields Mining Board. We cannot well demur to his doing so, though it is more than doubtful whether the result of such confidential consultation will tend to corroborate our too confidently expressed anticipations. It will be rather awkward to have to explain away what was said; but there seems to be no other alternative.

I doubt whether it was quite the right and proper thing for Government to have tried to forestall the Residency in the matter of ascertaining the views of the Mining Board and the Planters' Association. It might be different if we had merely sounded individual representatives of the European community. The inexpediency of the course adopted is practically demonstrated by the nature of the replies we have received from the two bodies; the Mining Board has avoided committing itself with the Durbar to any opinion of its own, while the Planters' Association wants special assurances before furnishing an opinion. As it is, I do not think we need make explicit mention of the enquiry or its result in our reply to the Residency.

The draft letter proposed to be sent to the Residency may be revised and amplified on the following lines:—

In furnishing the Residency with the figures asked for, we may observe that while the inconvenience to parties and witnesses in having to go all the way to Bangalore or the Kolar Gold Fields in order to appear before a Justice of the Peace (not to speak of trials before the High Court of Madras) is undoubtedly real, and cannot but have some influence on the volume of complaints preferred and the number and quality of the witnesses available for examination this is not a fact that usually finds mention in the records of cases, apart from comments in judgments on the strength and credibility of evidence adduced. Also, the results of trials before the Madras High Court are not fully available, and hence are not included in the statement.

Next, it may be stated that His Highness' Government can have no objection to the Hon'ble the Resident confidentially addressing the United Planters' Association or the Kolar Gold Fields Mining Board in the matter of the proposed change, should such a course appear to him necessary or advisable. In this connection it seems desirable to explain that it was not the intention of His Highness' Government to suggest that the prospect of giving up a privileged position, especially in a matter of racial discrimination was likely, *prima facie*, to be unqualifiedly acceptable to any community. But they do believe that, apart from considerations of sentiment, there are decided advantages, in such respects as the nearness of the venue of enquiry and trial and the resulting economy of time and trouble and money, which are calculated to recommend the change, when made to the particular community affected by it. As a matter of fact, it is believed, as the result of informal enquiries made on behalf of Government, that no very serious objection is likely to be raised to the principle of the measure; namely, the extension to the Mysore State of a reform which public opinion in India as a whole has long insisted upon, and which the Government of India, after careful investigation by a representative Committee of both Europeans and Indians, and after making all proper provision for safeguarding the reasonable interests and susceptibilities of European British subjects, have felt it incumbent to sanction for British India, a reform, it must be added, in which the community affected has itself acquiesced with characteristic good sense and loyalty to the national sentiment.

While the racial aspect of the question is common to Mysore with the rest of India, His Highness' Government are glad to think that the relations between the European and Indian communities within the State have been, if anything, closer and more cordial than elsewhere. And they are sincerely desirous that the continuance of the good understanding should not be impaired by the indefinite perpetuation of privileges and distinctions which are no longer found necessary or desirable in British India, and which after all relate primarily to that small handful of individual European British subjects who may happen to be accused of crime.

In any decision of the question as affecting the Indian States generally, the quality of the administrative machinery will no doubt be an important consideration; and in this respect His Highness' Government venture to submit that the case for Mysore stands on an exceptionally strong footing. They do not wish to labour the point in this connection, but will content themselves with recalling the generous and unstinting testimony borne by no less a personage than His Excellency the Viceroy Lord Reading, on the occasion of his visit to Mysore in November 1923 to "the sound traditions of administration prevailing in Mysore" as well as to the fact of His Highness the Maharaja having always made "efficiency in his Government" his "watchword." Speaking particularly, His Highness' Government believe that the qualifications of the Magistracy in Mysore and the quality of

criminal justice administered are not inferior to those obtaining in the provinces of British India outside of the Presidency towns. And it may be added that His Highness' Government are always prepared to consider and effect such improvements as may be necessary to ensure the general standard of efficiency being maintained at its proper level.

It may be mentioned also that Magistrates in Mysore, though not given the power of trial, have nevertheless for forty years (since the decision of His Excellency the Governor-General of India in Council, communicated to the Durbar in the Resident's letter of 4th March 1886) been empowered to exercise with respect to European British subjects the same powers as are exercisable by Magistrates who are not Justices of the Peace in places in British India beyond the limits of the Presidency towns. Now that the powers of the latter have been enlarged as the result of the Racial Disabilities Removal Legislation of 1923, His Highness' Government earnestly hope that it may be found possible to enhance to a corresponding extent the powers delegated to Magistrates in Mysore.

The revised draft may kindly be circulated to the Members of Council and the file brought up for consideration at an early meeting of the Council.

MIRZA M. ISMAIL,
9th August, 1926.

No. 21.—*Dewan's Minute dated* 9-9-1926.

I shall be glad if the Local and Legislative Secretary will kindly scrutinise the draft letter to the Residency and submit the file to me early.

MIRZA M. ISMAIL,
9th August, 1926.

No. 22.—*Local and Legislative Secretary's note dated* 11-9-1926.

I submit that another aspect of the case may perhaps be presented to the Residency.

It is settled law that the Justice of the Peace in Mysore is empowered to administer the law in force in British India.

The law as regards European British Subjects has been very materially altered by Act XII of 1923, and in consequence special provision (Secs. 443-449) in Cr. P. C. as amended are introduced.

The result of this amendment is that an accused may claim to be tried under the provisions of Chapter XXXIII, that if it is decided that he should be tried under the provisions of that chapter, the accused has to be tried by a Bench of Magistrates (one to be an European British subject and the other an Indian Magistrate) in summons cases and in warrent cases he shouid be committed to the Court of Sessions (*vide* Secs. 445 and 446). According to the previous law, a Justice of the Peace in Mysore had to commit the accused to the High Court, Madras.

Since the Cr. P. C. of 1898 is no longer law now in British India there is practical difficulty in applying the new Cr. P. Code as amended by the Justices of the Peace in Mysore. The new law contemplates District Magistrate who has to constitute a bench under Section 445 and a Sessions Judge under Section 446, who are these authorities in Mysore State that are to be appointed by the Viceroy. The Governor-General has to alter the notification empowering the High Court, Madras to try these offenders and empower Indian Magistrates to form a Bench and appoint District Magistrates and Sessions Judges to try these cases under the new Act.

These difficulties may perhaps be pointed out and urge the necessity of transferring jurisdiction to the Durbar and to give sanction to introduce these special provisions into our Code.

B. NAGAPPA,
11th August, 1926.

No. 23.—*Dewan's Minute dated* 12-9-26.

Will you kindly draft a para or two embodying these suggestions as an addition to the draft letter to the Residency. May kindly be submitted to the First Member in the first instance.

MIRZA M. ISMAIL,
12*th August*, 1926.

No. 24.—*Local and Legislative Secretary's note dated* 13-9-26.

I have suggested one paragraph to be inserted just before the last paragraph in the proposed draft. The portion marked A, may perhaps be omitted, as it involves a committal.

B. NAGAPPA,
13*th August*, 1926

No. 25.—*First Member's Minute dated* 14-9-26.

What we are aiming at is most difficult of achievement; and the suggestions put forward by Local and Legislative Secretary are both likely, I am afraid, to add to the difficulty. Portion A in the draft is one of the points perhaps, the chief one, that might lead the Government of India to consider the case; and I think it may stand. The proposed additional para of Local and Legislative Secretary would invite attention to a difficulty that we have no European First Class Magistrates and so close the matter. If the difficulty is perceived by Government of India now or later, the best solution will then have to be found and pointed out to them.

I would send the letter as it is without any addition or omission.

K. CHANDY,
14*th August*, 1926.

No. 26.—*Dewan's Minute dated* 14-9-26.

I agree with the member.

MIRZA M. ISMAIL.
14*th August*, 1926.

No. 27.—*Submission Note dated* 17-9-1926.

When I was examining the Internal Security Scheme, I found that the question of the trial of European British subjects residing in the State for offences committed therein had been incidentally dragged into the case and that the main issue had been lost sight of owing to certain doubtful and awkward statements in the previous correspondence. I, therefore, recorded a minute reviewing the whole position and indicating the lines on which we might address the Residency in order to secure for the State also the removal of racial discrimination in regard to the trial of offences as in British India.

A draft letter to the Residency has been prepared on the lines of my note. This was considered in Council at the meeting held on 30th August 1926. The Council have resolved that the draft letter might be approved.

It is very necessary that endeavours should be immediately made to bring our law into line with that of British India and set this question at rest early.

The Resolution of the Council may be graciously approved.

MIRZA M. ISMAIL,
17*th August*, 1926.

Order.

K. R. W.

30-12-26.

No. 28.—*D. O. No. C.* 47, *dated the* 23*rd September* 1926, *from Sir Charles Todhunter, Private Secretary to His Highness, to the Dewan.*

I hope you will pardon my troubling you with a reference on the subject of your letter with regard to the trial of European British subjects, not on racial grounds at all, but solely with a view to a practical solution.

Briefly, I would ask whether the most effective letter to the Residency at this stage would not be a very short letter asking for information as to what the law now is in Mysore.

I am afraid the letter already sent was written without a very clear idea of what the proposal involved. You have demolished most of its arguments in your note of the 9th August. The Secretary in his of the 11th September shows that, so long as the European British subject exercised his option, the main difficulty, which arises out of the paucity of European Magistrates, would be just as great as before. I am not sure it would not be greater since, in a case in which racial considerations are concerned, either side can claim a bench.

I might add that the statistical statement proposed to be forwarded to the Residency does not appear to lend any support to the Statement it is designed to establish.

The truth is that the compromise arrived at by the politicians in British India has led to a most complex set of provisions which are of doubtful efficacy there. As the Secretary has pointed out, they cannot be applied by Justices of the Peace in Mysore, while, if you could secure an amendment of the Treaty and the enactment of similar legislation, you would thereby commit yourself to the maintenance of a staff of European Magistrates.

It is difficult to suggest the way out. So far as I can see, however, it would appear to lie in the direction of—

(1) getting the Viceroy to delegate power generally to Mysore Magistrates to deal with cases in which no claim to trial by a bench is made (this would go far to remove the feeling, if it exists, that they are not on a par with their compeers in British India), and

(2) arranging for the trial of cases in which such a claim is made by a Mysore Magistrate nominated by Government sitting with a European nominated by the Residency.

It would seem, however, to be inevitable that the Government of India already have the matter, which will affect all the States, in hand, and it is for this reason that I suggested limiting the present reference to a request for information with a view to discussion of the question at Delhi in November.

Incidentally I am not at all sure that, if for instance, an ugly case in which a soldier was concerned did arise, you would not find it much more satisfactory to leave the British Government to deal with its own subject and servant, since, whoever tries the case, some party is likely to be dissatisfied and attack the Government as in the correspondence that is now going on in the papers in relation to cases in Bengal and Assam.

No. 29.—*D. O. No. Pol.* 591, *dated 7th January* 1927, *from Mr. P. G. D'Souza, Chief Secretary to Government, to Major Evans Gordon.*

I am directed to refer to correspondence ending with Mr. Cater's demi-official letter No. 6333, dated 9th August 1924, addressed to Mr. K. Matthan on the subject of the trial of European British subjects in the State for offences committed by them.

As desired in that letter, I am to enclose a statement of cases, involving the trial of European British subjects for the period 1914-15 to 1923-24, and to say that details are not available as to the reasons for the failure of some of the cases. Enquiries made of local officers have only elicited the general explanation that in many cases on account of the inconvenience to complainants and witnesses, parties preferred not to proceed with most of these cases as the complaints concerned simple offences such as assault or hurt. It seems that in the majority of instances the trouble and expense involved in the trial of such cases have not infrequently deterred parties from pressing the prosecution.

I am to observe that while this inconvenience referred to *viz.*, parties and witnesses having to go all the way to Bangalore or the Kolar Gold Fields, and in some cases to Madras for trial before the High Court, is undoubtedly real, and cannot but have some influence on the volume of complaints preferred, and the number and quality of the witnesses available for examination, this is not a fact that usually finds mention in the records of cases, apart from comments in judgments on the strength and credibility of evidence adduced. Also, the results of trials before the Madras High Court are not fully available, and hence are not included in the statement.

In regard to the enquiry made in Mr. Cater's letter, I am to say that His Highness' Government have no objection to the Hon'ble the Resident confidentially addressing the United Planters' Association or the Kolar Gold Fields Mining Board in the matter of the proposed change, should such a course appear to him necessary or desirable. In this connection, I am desired to explain that it was not the intention of His Highness' Government to suggest that the prospect of giving up a privileged position, especially in the matter of racial discrimination was likely *prima facie*, to be unqualifiedly acceptable to any community. But they believe that, apart from considerations of sentiment, there are decided advantages, in such respects as the nearness of the venue of enquiry and trial, and the resulting economy of time, trouble and money, which are calculated to recommend the change, when made, to the particular community affected by it. As a matter of fact, it is believed, as the result of informal enquiries made on behalf of Government that no very serious objection is likely to be raised to the principle of the measure; namely the extension to the Mysore State of a reform which public opinion in India, as a whole has long insisted upon, and which the Government of India, after careful investigation by a representative committee of both Europeans and Indians, and after making proper provision for safeguarding the reasonable interests and susceptibilities of European British subjects have felt it incumbent to sanction for British India, a reform it must be added, in which the community affected has itself acquiesced.

While the racial aspect of the question is common to Mysore with the rest of India, His Highness' Government are glad to think that the relations between the European and Indian Communities within the State have been, if anything, closer and more cordial than elsewhere; and they are sincerely desirous that the continuance of the good understanding should not be impaired by the indefinite perpetuation of privileges and distinctions which are no longer found necessary or desirable in British India, and which after all relate primarily to that small handful of individual European British subjects who may happen to be accused of crime.

In any decision of the question as affecting the Indian states generally, the quality of the administrative machinery will no doubt be an important consideration; and in this respect His Highness' Government venture to submit that the case for Mysore stands on an exceptionally strong footing. They do not wish to labour the point in this connection, but will content themselves with recalling the generous and unstinting testimony borne by no less a personage than H. E. the Viceroy Lord Reading, on the occasion of his visit to Mysore in November 1923, to "the sound traditions of administration prevailing in Mysore" as well as to the fact of His Highness the Maharaja having always made "efficiency in his Government" as his "watch-word." Speaking particularly His Highness' Government believe that the qualifications of the

Magistracy in Mysore and the quality of criminal justice administered are not inferior to those obtaining in the Provinces of British India outside of the Presidency towns.

It may be mentioned also that Magistrates in Mysore, though not given the power of trial, have nevertheless for forty years (since the decision of H. E. the Governor-General in Council, communicated to the Durbar in the Resident's letter of 4th March 1886) been empowered to exercise with respect to European British subjects the same powers as are exercisable by Magistrates, who are not Justices of the Peace, in places in British India beyond the limits of Presidency towns. Now that the powers of the latter have been enlarged as the result of the Racial Disabilities Removal Legislation of 1923, His Highness' Government hope that it may be found possible to enhance to a corresponding extent the powers delegated to Magistrates in Mysore.

In these circumstances, I am to request that the Hon'ble the Resident may be moved to be so good as to place this proposal before the Government of India with his support, and obtain their early and favourable orders.

ENCLOSURE (1) IN **No. 29.**

Statement showing the number of cases involving the trial of European British subjects.

Year	Convicted		Acquitted		Committed to Madras High Court		Left pending at the end of the year		Total		Remarks
	Number of cases	Number of persons	Number of cases	Number of persons	Number of cases	Number of persons	Number of cases	Number of persons	Number of cases	Number of persons	
1914–15 ..	12	14	10	12	1	1	..	..	23	27	
1915–16 ..	16	17	9	11	..	..	4	5	29	33	
1916–17 ..	6	9	7	8	..	..	2	3	15	20	
1917–18 ..	..	7	..	1	..	1	..	..	..	9	
1918–19 ..	..	12	..	3	..	..	..	..	..	15	
1919–20 ..	..	7	..	3	..	1	..	..	..	11	
1920–21 ..	..	7	..	3	..	..	..	1	..	11	
1921–22 ..	..	2	..	4	..	..	..	1	..	7	
1922–23 ..	..	7	..	3	..	1*	..	..	..	11	
1923–24 ..	3	3	4	5	2	2	..	..	9	10	* Charge sheet returned for want of jurisdiction.

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1. D. O. No. C. B. 2298-9, dated 17th January 1924, from Mr. K. Matthan, Chief Secretary to Government, to (1) Mr. Verghese, B.A., B.L., Judge of the High Court, Trivendrum; and (2) Mr. Krishna Pillay, Chief Secretary to Government, Trivendrum 23

   Calls for information *re* the extent of jurisdiction if any, exercised by the Travancore State Courts over European British subjects resident in the State.

2. D. O. letter dated 23rd January 1924, from Mr. P. J. Verghese 23

   Furnishes the information called for in the above letter.

3. D. O. letter dated 31st January 1924, from Mr. R. Krishna Pillay 23

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APPENDICES.

APPENDIX A.—No. 1.

Article 17 *in the Instrument of Transfer,* 1881. (*Reproduced as Article* 16 *in the Mysore Treaty,* 1913).

Plenary criminal jurisdiction over European British subjects in the said territories shall continue to be vested in the Governor-General in Council, and the Maharaja of Mysore shall exercise only such jurisdiction in respect of European British subjects as may from time to time be delegated to him by the Governor-General in Council.

APPENDIX A.—No. 2.

* * * * *

Foreign Jurisdiction Order in Council, 1902, 11*th June.*

Whereas by treaty, grant, usage, sufferance, and other lawful meons, His Majesty the King has powers and jurisdiction exercised on His behalf by the Governor-General of India in Council, in India and in certain territories adjacent thereto ;

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. This Order may be cited as the Indian (Foreign Jurisdiction) Order in Council, 1902.

2. The limits of this Order are the territories of India outside British India, and any other territories which may be declared by His Majesty in Council to be territories in which jurisdiction is exercised by or on behalf of His Majesty through the Governor-Gencral of India in Council, or some authority subordinate to him, including the territorial waters of any such territories.

3. The Governor-General of India in Council may, on His Majesty's behalf, exercise any power or jurisdiction which His Majesty or the Governor-General of India in Council for the time being has within the limits of this Order, and may delegate any such power or jurisdiction to any servant of the British Indian Government in such manner, and to such extent, as the Governor-General in Council from time to time thinks fit.

4. The Governor-General in Council may make such rules and orders as may seem expedient for carrying this Order into effect, and in particular,—

(*a*) for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force elsewhere, or otherwise ;

(*b*) for determining the persons who are to exercise jurisdiction, either generally or in particular classes of cases, and the powers to be exercised by them ;

(*c*) for determining the courts, authorities, judges and magistrates, by whom, and for regulating the manner in which any jurisdiction auxiliary or incidental to or consequential on the jurisdiction exercised under this Order, is to be exercised in British India ;

(*d*) for regulating the amount, collection and application of fees.

5. All appointments, delegations, certificates, requisitions, rules, notifications, processes, orders and directions made or issued under or in pursuance of any enactment of the Indian Legislature regulating the exercise of foreign jurisdiction, are hereby confirmed, and shall have effect as if made or issued under this Order.

6. The Interpretation Act, 1889, shall apply to the construction of this Order.

APPENDIX A.—No. 3.

Notification No. 124—34 *Legis.* 12-03, *dated Bangalore, the* 9*th February* 1904.

With reference to the Code of Criminal Procedure, 1904 (Regulation II of 1904), and in accordance with the decision of His Excellency the Viceroy and Governor-General of India in Council, His Highness the Maharaja is pleased to notify that until further orders.

(*a*) the expression " jurisdiction " in the last sentence of sub-section (2) of Section 1 of the said Code shall be held to mean jurisdiction to enquire into or try a charge, and

* Extracted from the Manual of Procedure relating to extradition compiled for the guidance of Officers in the Madras Presidency.

(*b*) that Police Officers and Magistrates in Mysore may exercise with respect to European British subjects the same powers as may be exercised with respect to European British subjects by Police Officers and by Magistrates who are not Justices of the Peace, respectively, in places in British India beyond the limits of the Presidency Towns.

(By order,)

K. S. CHANDRASEKHARA IYER,
For *Secretary to Government,*
General and Revenue Departments.

APPENDIX A—No. 4.

Notification dated the 13th May 1904.

No. 1863—I. A.—In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, the Governor-General in Council is pleased, with effect from the 1st day of June 1904, to direct that, for the purposes of any power of jurisdiction exercised under that order, the law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor-General in Council from time to time directs, apply, so far as applicable, to all subjects of His Majesty.

APPENDIX A.—No. 5.

Notification, dated 14th July 1904.

No. 2770—F. B.—In exercise of the powers conferred by the Indian (Foreign Jurisdiction Order in Council, 1902, the Governor-General in Council is pleased to direct that any European British subject appointed, either by name or by virtue of his office, to be Justice of the Peace in or for any country or place beyond the limits of British India shall have in proceedings against European British subjects, or persons accused of having committed offences jointly with such subjects, all the powers conferred by the Code of Criminal Procedure, 1899 (Act V of 1898), on Magistrates of the First Class who are Justices of the Peace and European British Subjects.

APPENDIX B.—1.

Ref. COURTS FILE No. 11 *of* 1925-26.

Trial of Mr. W. H. King and his son (European British subjects).

Local and Legislative Assistant Secretary's note dated 17th July 1925.

Act XXI of 1879 referred to by the District Magistrate has been repeated by the Extradition Act of 1903; but by the notifications issued in exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, the law relating to offences and to criminal procedure for the time being in force in British India, will apply, and the Justices of the Peace are invested with the powers that may be exercised by a First Class Magistrate under the Criminal Procedure Code. The Justice of the Peace can exercise powers of a First Class Magistrate and the law applicable is that prevailing in British India.

It is not correct to say that the new Code in British India has done away with the Justices of the Peace *vide,* Sections 22 to 25 of the Criminal Procedure Code as amended. The only change is that the Governor-General does not appoint Justices of the Peace and they need not be European British subjects. Further the Justices of the Peace in the British Indian Code, have nothing to do with Indian States. Their scope of activity and their jurisdiction is confined to British India. Justices of the Peace appointed for Indian States like Mysore were appointed by the Governor-General, under the Criminal Procedure Code but under Act XXI of 1879 and after its repeal by the Order in Council of 1902, already referred to. They exercise jurisdiction in Mysore under that order and had powers of a First Class Magistrate. The law they had to apply and have to apply is that prevailing in British India.

The law in British India, as regards European British subjects has now been changed. When a European British subject claims to be tried as such, a Second or Third Class Magistrate *of any nationality* may try him, if the offence is punishable with fine not exceeding Rs. 50. Otherwise the case will have to go before a First Class Magistrate, (of any nationality), *vide* Section 29 A.

If racial considerations arise *i. e.* where the complainant or the co-accused happen to be Indian the trial will proceed under Chapter XXXIII, which prescribes a Bench of Magistrates, one of whom is a European and the other an Indian In the case in question, there is a doubt as to whether a Justice of the Peace can entertain a complaint. He has powers of a First Class Magistrate, but he is not a First Class Magistrate under the Criminal Procedure Code. Granting that he can entertain the complaint, a further difficulty arises if provisions of Chapter XXXIII have to be applied. He has to refer the case to a District Magistrate, who will have to constitute the Bench. But so far as native states, are concerned there are no District Magistrates of the kind, *i.e.* appointed by the Governor-General and having jurisdiction in the State. Justices of the Peace commit cases direct to the High Court. No other courts have any jurisdiction. The result is that in cases of the kind, the case cannot go on for want of machinery. This may be pointed out to the Residency and they may be asked as to what has to be done in cases of the kind. This may also be urged as a strong ground for the grant of jurisdiction to our magistrates.

* * * * * *

C. ABDUL GHANI,
17th July, 1925.

APPENDIX B.—2.

Local and Legislative Secretary's note dated 18th July 1925.

The reference presents some difficulty.

The law on the subject is that an European British subject residing within Mysore shall only be tried for an offence committed in Mysore, by a Justice of the Peace appointed by the Governor-General and that Justice of the Peace exercises the powers of a First Class Magistrate and that the offender is tried and punished according to the law both substantive and adjective obtaining in British India for the time being in force.

In Mysore there are Justices of the Peace appointed by the Governor-General and are exercising the powers of a First Class Magistrate under the Code of Criminal Procedure in force in British India.

By Section 3 of the new Code 1923 the expression *viz.*, "officers exercising or having the powers or the full powers of a magistrate used in the former enactment shall mean magistrate of the first class." Hence a Justice of the Peace in Mysore who is appointed as such and is entrusted with all the powers conferred by the Code of Criminal Procedure 1898, on magistrates of the first class may be considered a magistrate of the first class within the meaning of that expression used in the British Indian Criminal Procedure Code as amended up to 1923.

The difficulty of an European being tried only by a Magistrate of the first class under the new Code may perhaps be solved if Mr. King and his son are tried by a nearest Justice of the Peace.

But a greater difficulty arises when a Justice of the Peace has to proceed under Section 445, Criminal Procedure Code. If the enquiry ends in a discharge, no difficulty arises for Section 143 will not come into operation until the accused is asked to show cause under Section 242 or enters on his defence under Section 256. Under Section 445, the magistrate trying a summons case is bound to refer the case to a Bench of Magistrates for trial, one must be an European and the other an Indian.

There is no Indian Magistrate appointed in Mysore under the British Indian Code; neither is there a District Magistrate appointed. Unless these are appointed, the trial cannot take place.

Hence a reference to the Residency to take immediate steps for the appointment of District Magistrate and Sessions Judge, Magistrates of the First, Second and Third Class under the new Code, is necessary.

APPENDIX C.—1.

D. O. No. C. B. 2298—9, *dated 17th January* 1924, *from Mr. K. Matthan, Chief Secretary to Government; to* (1) *Mr. Verghese, B.A., B.L., and* (2) *Mr. Krishna Pillai, Trivendrum.*

Can you kindly let me have some information as to the extent of jurisdiction, if any, exercised by the Travancore State Courts over European British subjects resident in the State? you have perhaps seen an article on "Racial Distinction" by Achyuta Menon in the *Indian Review* of June 1923. In this reference is made to the conferring of a limited jurisdiction on certain Magistrates in Travancore and Cochin. I should like to have as clear an information on the point as

possible. Are Justices of the Peace appointed by the Governor-General or by the Travancore Government? Do Indian District Magistrates or any other Magistrates exercise jurisdiction over European subjects? What jurisdiction has the Travancore High Court in the matter? Do appeals from the decisions of the Justices of the Peace come up to the Travancore High Court? I believe cases for the Sessions are committed to the Madras High Court.

APPENDIX C.—2.

D. O. Letter dated 23rd January 1924, *from Mr. P. J. Verghese, Judge of the High Court, Trivendrum, to Mr. K. Matthan, Chief Secretary to Government.*

I am in due receipt of your letter of the 17th January. The subject of the trial of European British subjects in Travancore is dealt with in:—

(1) The Royal Proclamation of 16-10-1050—28-5-1875.
(2) The Royal Proclamation of 22-3-1051—6-11-1875, and
(3) Chapter 32 of the Travancore Criminal Procedure Code of 1067—1892.

By the Proclamation of 1050, the Travancore Criminal Courts were divested of their jurisdiction to try European British subjects, and "Special Magistrates being European British subjects whom we may from time to time appoint", were given this jurisdiction. These Special Magistrates had power to pass any sentence not exceeding three months' imprisonment and fine up to one thousand rupees. "In regard to committable cases, the enquiry and committal will proceed by virtue of appointments" made by the Governor-General. This Proclamation did not affect the power of the oridinary courts to take cognizance of contempt of courts.

By the Proclamation of 1051, "the Christian Judge for the time being of our Sadir Court (now High Court) being a European British subject" was appointed Special appellate Judge, to hear and dispose of appeals from the decision of the Special Magistrates.

Chapter 32 of the Travancore Criminal Procedure Code corresponds to Chapter 33 the British Indian Criminal Procedure Code with the necessary changes. In the former "Special Magistrates" is substituted for "Justice of the peace.....British subject" in the latter. The jurisdiction of the ordinary court to deal with cases of contempt is reasserted.

There are three Special Magistrates in Travancore (Messrs. Cameron, Macmillan and Pryde) and one Special Appellate Magistrate (Mr. Chatfield) appointed by His Highness the Maharaja. There are five Justices of the Peace who were appointed by the Governor-General (Messrs. Chatfield, Robinson Pryde, Cameron and Macmillan) to deal with "committal cases."

I read the article in the *Indian Review*. That speaks of the incidents that led to the Proclamation of 1075.

APPENDIX C.—3.

D. O. Letter dated 31*st January* 1924, *from Mr. R. Krishna Pillai, Chief Secretary to Government, Trivendrum, to Mr. K. Matthan, Chief Secretary to Government.*

With reference to your D. O. No. 2299—C. B. dated the 17th January 1924, *re* Jurisdiction of the Travancore State Courts over European British subjects, I write to inform you that, as regards Civil Jurisdiction, the Courts exercise entire jurisdiction.

2. As regards Criminal Jurisdiction, copies of Royal Proclamations passed under dates the 28th May and 6th November 1875, as also Sections 333 to 344 of the Travancore Criminal Procedure Code, pertaining to the subject, are enclosed. It will be seen there from that the ordinary Criminal Courts of this State have no jurisdiction to try offences committed by European British subjects and that such jurisdiction is exercised exclusively by Special Magistrates, being European British subjects, appointed under the Proclamation dated the 28th May 1875. Particulars relating to the other points, referred to therein, are given below:—

(i) Except where a separate territorial jurisdiction is assigned aud notified in the "Travancore Government Gazette", a European British subject charged with the commission of an offence shall be tried by the Special Magistrate whose station is nearest to the scene of the offence, unless the case is transferred to another Special Magistrate (*Vide* Section 2 of the said Proclamation).

(ii) Special Magistrates for the trial of European British subjects in Travancore are appointed only after they are made Justices of the Peace by the Governor-General in Council under the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf.

(iii) Appeals from the decisions of the Special Magistrate do not come up before the Travancore High Court, but are heard and disposed of by the European Judge of that High Court appointed and styled "Special Appellate Judge" under the Proclamation dated the 6th November 1875.

(iv) Cases for the Sessions are committed generally to the Madras High Court (*Vide* also ection 338 of the Travancore Criminal Procedure Code).

ENCLOSURE (*a*) IN **Appendix C.—3.**

PROCLAMATION.

BY HIS HIGHNESS THE MAHARAJAH OF TRAVANCORE, ISSUED UNDER DATE THE 16TH EDAVAM 1050, CORRESPONDING TO THE 28TH MAY 1875.

Whereas in communication with the Government of India, We have found it necessary to make special arrangements for the trial of European British subjects, committing offences in our territories :—

1. We do hereby divest our ordinary Criminal Courts of every grade of jurisdiction to try offences committed by European British subjects, and do further declare that such jurisdiction shall, from and after the date of this Proclamation, be exercised exclusively by Special Magistrates, being European British subjects, whom we may from time to time appoint, such appointments being notified by the Dewan in our Government Gazette.

2. Except where a separate territorial jurisdiction is assigned and notified in the Gazette, a European British subject charged with the commission of an offence shall be tried by the Special Magistrate whose station is nearest to the scene of the offence, unless by our authority the case is transferred to another Special Magistrate.

3. We are further pleased to confer the following powers upon such Special Magistrates—namely, power to pass, on conviction, any sentence not exceeding three months' imprisonment or fine up to one thousand British rupees or both.

4. A Special Magistrate, appointed under this Proclamation for the trial of European British subjects, shall not take cognizance of offences committed by other subjects, unless he is also an ordinary Magistrate authorised by law to take cognizance of such cases.

5. In regard to committable cases, the enquiry and committal will proceed by virtue of appointments to be made and powers conferred by His Excellency the Viceroy and Governor-General.

6. Nothing in this Proclamation shall be understood to prevent our ordinary Courts of whatever grade taking cognizance as hitherto of cases of contempt of Court by whomsoever committed.

7. The special arrangements herein made are not intended to relieve our ordinary Police, and Magistrates and Sub-Magistrates acting as Police Officers, from the functions they have hitherto exercised as such, in respect of European British subjects.

ENCLOSURE (*b*) IN **Appendix C.—3.**

PROCLAMATION.

BY HIS HIGHNESS THE MAHARAJAH OF TRAVANCORE, ISSUED UNDER DATE THE 22ND THULAM 1051, CORRESPONDING TO THE 6TH NOVEMBER 1875.

Whereas, in communication with the Government of India, We have found it necessary to make arrangements for the hearing and disposal of appeals from the decisions of the Special Magistrates appointed under our Proclamation dated the 16th Edavam 1050, corresponding to the 28th May 1875, and for revising their proceedings; We do hereby constitute and appoint the Christian Judge for the time being of our Sadir Court, being a European British Subject, to be Special Appellate Judge, to hear and dispose of appeals from the decisions of the Special Magistrates appointed under our Proclamation above recited, and to revise their proceedings according to law, hereby conferring on him the necessary Appellate Jurisdiction and the same punitive powers as are conferred on our Special Magistrates under the above Proclamation.

2. And whereas, by our said Proclamation, power was reserved to our ordinary Courts of every grade to take cognizance of contempt of Court by whomsoever committed, which power it

is necessary to define here, so far as European British subjects are concerned; We hereby direct that our ordinary Courts aforesaid shall be competent to take cognizance of such cases of contempt only as are cognizable by any Civil, Criminal or Revenue Court in British India under Chapter XXXII of Act No. X of 1872, and subject to the provisions of that Act in respect of procedure and punishment.

Cases of contempt of Court, not falling within the above para, and of which European British subjects are accused, shall be referred, under the procedure indicated in the Act aforesaid, to the proper Court having jurisdition in the case.

ENCLOSURE (*c*) IN **Appendix C.—3.**

REGULATION V OF 1067.

THE CODE OF CRIMINAL PROCEDURE.

PART VIII—SPECIAL PROCEEDINGS.

CHAPTER XXXII—*Criminal Proceedings Against European British Subjects.*

Magistrates who may inquire into and try charges against European British subjects.

333. No Magistrate, unless he is a special Magistrate appointed under Royal Proclmation dated 16th Edavam 1050, corresponding to 28th May 1875, shall inquiry into or try and charge against an European British subject, except in cases of contempt of Court falling under Section 359 of this Code.

Sessions Judge not to have jurisdiction over Europeann British subject except in Cases oi contempt.

334. No Judge presiding in a Court of Sessions shall excercise jurisdiction over an European British subject, except in cases of contempt of Court falling under Britisn subject, except in cases of contempt of Court falling under Section 395 of this Code.

Cognizance of offence committed by European Britith subject.

335. Nothing in Section 333 or Section 334 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of like offence if committed by another person.

Provided that if he issues any process for the purpose of compelling the appearance of an European British suubject accused of an offence, such process shall be made returnable before a Special Magistrate having jurisdiction to inquire into or try the case.

Sentences which may be passed by Special Magistrates.

336. No such Special Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand British rupees, or both.

Special Appellate Judge to hear appeals.

337. The Special Appellate Judge appointed under Our Proclamation deted 22nd Thulam 1051, corresponding to 6th November 1875; 25th Kanni 1084, corresponding to 10th October 1908, and 9th Chingom 1088, corresponding to 24th August 1912 (*), shall hear and dispose of appeals from the decisions, of Our Special Magistrates and shall revise their proceedings.

(The Special Appellate Judge may also transfer any case inquiry, trial or other proceeding, from any Special Magistrate subordinate to him to any other such Magistrate, after recording in writing his reasons for making the same).*

When commitment to be made to a higher tribunal.

338. When an European British subject is accused of any offence before such Special Magistrate, and such offence cannot, in the opinion of such Magistrate, be tried by him or be adequately punished by him, he shall commit him to such Courts as His Excellency the Viceroy and Governor-General of India has appointed or may appoint, and follow such law and procedure as are in force in British India in respect of the commitment of European British subjects.

Procedure on claim of person to be dealt with as European Britsh subject.

339. When any person claims to be dealt with as an European British subject, he shall state the grounds of snch claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial, and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time, within which to drove that it is true, aud shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(*) Added by Regulation VII of 1088.

When any such person is committed by the Magistrate for trial before the Court of Session and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British subject and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

When the court before which any person is tried decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

340 (1) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is brought, he shall be held to have relinquished his right to be dealt with as such European British subject, and shall not assert it in any subsequent stage of the same case.

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not *

Right of European Brirish subject unlawfully detained to apply for order to be brought before Special Appellate Judge.

341. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf, may apply to the Special Appellate Judge for an order directing the person detaining him to bring him before such Special Appellate Judge to abide by such further order as he may pass.

Procedure on such application.

342. The Special Appellate Judge, if he thinks fit, may before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application ; or he may issue the order in the first instance and, when the person applying for it is brought before him, he may make such further order in the case as he thinks fit, after such inquiry (if any) as he thinks necessary.

Conduct of Criminal Proceedings against European British Subjects before Special Magistrate and Special Appellate Judge.

343. Criminal proceedings against European British subjects, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

Special Appellate Judge's power of revision.

344. The Special Appellate Judge appointed under Royal Proclamation dated 22nd Thulam 1051, corresponding to the 6th November 1875, may exercise all or any of the powers conferred upon the High Court by Chapter XXXI, in respect of cases tried or triable exclusively by Special Magistrates:—

Provided that, he shall not pass any higher sentence than a Special Magistrate is empowered to do under Section 336.

* Added by Regulation II of 1090.